



Arizona Department of Housing

Environmental Review Record (ERR) Handbook

Revised September, 2004

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ENVIRONMENTAL REVIEW RECORD (ERR)

Revised September 2004

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1.0 THE ENVIRONMENTAL REVIEW RECORD

This handbook provides a tool for recipients (local governments, non-profits, CHDOs, contractors, owners and developers) to comply with the statutory and regulatory Environmental Review Record (ERR) requirements. The Environmental Review Record will be referred to throughout this handbook as the "ERR." The ERR encompasses all forms, maps, correspondence, notes, studies, publications and related documents.

It is important to begin the environmental review process as soon as possible after determining the scope and nature of the project. Recipients are encouraged to begin the ERR even before submitting an ADOH application for funding.

Completion of the ERR is mandatory before taking a physical action on a site or entering into contracts. Only activities that are exempt from ERR requirements may be undertaken and reimbursed by ADOH such as architecture, engineering and administration. If federal funds are involved in a project, neither federal nor non-federal funds may be expended or committed by contract (conditional or not) for property acquisition, rehabilitation, conversion, lease, repair or construction activities, until HUD or ADOH has provided written authorization based on approval of an ERR.

An option agreement (to purchase land) on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is contingent upon an ADOH or HUD authorization to use funds based on a completed ERR. The cost of the option must be a nominal portion of the purchase price.

Recipients who had committed or expended non-Federal funds to begin a project before receiving an authorization from ADOH or HUD may still be eligible to use HOME funds (only) on the project under the following circumstances:

- (a) Recipients started the project without the intention of using Federal assistance (e.g., as evidenced by other anticipated funding, the original project budget, etc.)
- (b) All work on the project ceases once an application for federal funds is made and an ERR is begun on all activities, i.e, acquisition, construction, etc. ADOH or HUD provides authorization to proceed based on the completed ERR.

Example: A nonprofit housing developer uses its own funds to acquire land to construct four single-family affordable housing units. Under normal circumstances this project could be sustained by using local funds, and the nonprofit had no intention of using HOME funds to assist any part of it. However, unanticipated cost overruns occur related to site preparation work causing the project to go over budget. The developer decides to seek HOME funds from the ADOH, stops all activity and contacts ADOH. An environmental review is completed, HOME funds are awarded and ADOH provides authorization to use HOME funds based on the results of the ERR. Work on the project recommences.

1.1 Purpose of the Environmental Review

There are four objectives of the ERR process:

1. To comply with legal requirements

2. To assist in project planning
3. To determine if the proposed activity will have an impact on the environment
4. To determine whether the environment will have an impact on the proposed activity

The value of the environmental review is to identify: (1) the existence of negative impacts on a site, (2) means to mitigate negative impacts, (3) alternatives to the project if needed, and (4) whether not proceeding with the proposed action may be the most prudent course of action.

The ERR process will identify areas where project design and planning can be improved to mitigate such things as high noise levels, inadequate public safety, flooding problems, or the time constraints of archaeological finds.

Successful completion of the ERR will result in the issuance of a written “Authority to Use Grant Funds” by either ADOH or HUD.

1.2 Legal Bases for the Environmental Review

This handbook summarizes the following laws and regulations regarding the ERR.

- Title I of the Housing and Community Development Act of 1974
- Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990
- HUD regulations at 24 CFR Part 58, Environmental Review Procedures for Recipients Assuming HUD Responsibilities
- National Environmental Policy Act of 1969 (NEPA), as amended
- Council on Environmental Quality (CEQ) regulations, which implement NEPA and appear as 40 CFR Parts 1500 through 1508
- Various statutory and regulatory requirements such as those relating to the Environmental Protection Agency, the Advisory Council on Historic Preservation, and other HUD regulations
- U.S Department of Housing and Urban Development Notice CPD-01-11

1.3 Two Levels of ERR Review

The ERR requires two levels of government review. The first level of government does the work to conduct the ERR for a project. After the ERR is conducted the decision to proceed with the project is handed over to the second level of government which provides the authority to proceed with the project based on the results of the ERR. First level reviewers are designated the *Responsible Entity*. Second level reviewers release funds through a written *Authority to Use Grant Funds*.

Local government grant recipients are the *Responsible Entity* and are charged with doing the work of the ERR. Once the ERR is complete local government must obtain ADOH approval to proceed with a project. This is done by having the local government *Certifying Officer* execute a *Request for Release of Funds and Certification* and submitting it to ADOH.

If the grant is a HOME grant and the recipient is a non-profit organization, CHDO, contractor or builder, ADOH is the *Responsible Entity*. Once ADOH completes the ERR it must obtain HUD approval to proceed with a project. This is done by having the ADOH *Certifying Officer* execute a *Request for Release of Funds and Certification* and submitting it to HUD.

In the case of a non-profit organization, CHDO, contractor or builder the ERR process will be expedited if most of the work to compile the ERR is conducted by the recipient. This is because

many resources necessary to conduct the ERR are local and ADOH offices are remote from most project locations. At the point where the notices are ready to be published or disseminated the ERR files are forwarded to ADOH who can then complete the process.

1.4 Designating a Certifying Officer

1.4.1 Local Governments

Local governments must designate a *Certifying Officer* who will be responsible for meeting the requirements of NEPA, the Housing and Community Development Act and NAHA and making decisions on the basis of the ERR. The *Certifying Officer* is the Recipient's chief elected or administrative officer. The *Certifying Officer* signs all official certifications related to the ERR. ERR forms can be prepared by staff other than the *Certifying Officer* and documents that are not official certifications may be signed by the person completing the form. The *Certifying Officer* represents the Recipient and is subject to the jurisdiction of the federal courts should there be a legal challenge.

The *Certifying Officer* must review and comment on any Environmental Impact Statement (EIS) prepared for federally funded projects, which may have an impact on a government's community development program. If someone other than the chief elected official or administrative officer is identified as the *Certifying Officer*, ADOH will require documentation of approval or appointment by the Recipient's governing body.

1.4.2 Non-Governmental Agencies

For non-profit organization, CHDO, contractor or builders HOME recipients, ADOH's *Certifying Officer* is responsible for the ERR.

1.5 The ERR Process

Depending upon the project, there are differing levels of ERR review that must be conducted. If, through the ERR, it is determined that no mitigation is required, a project may actually be "downgraded" and be subject to a less intensive review.

The first step in the process is to determine the level of environmental review that is necessary.

There are four types of Environmental Review. These are defined in more detail in Section 3:

- 1) Exempt
- 2) Categorically Excluded
- 3) Environmental Assessment
- 4) Environmental Impact Statements *

* Environmental Impact Statements require a different process and are not discussed in this Handbook.

The second step in the ERR process is to begin completing ERR forms as applicable. The third step for non-exempt activities is to conduct consultations to determine the extent to which the project complies with federal environmental laws. The fourth step is to involve the general public by publishing notices. Categorically Excluded projects must publish a *Notice of Intent to Request a Release of Funds (NOI/RROF)*. Environmental Assessment activities must publish a *Finding of No Significant Impact (FONSI)* as well as a *NOI/RROF* (The *FONSI* and *NOI/RROF* notices can be combined.) Both types of notices provide for a *public comment period* and a *public objection period*. Both types of notices indicate the following:

- 1) An ERR has been conducted by a *Responsible Entity* and it is available for review.
- 2) Comments can be made to the *Responsible Entity* before it sends a *RROF* to ADOH or HUD. The *public comment period* is 7 days for Categorically Excluded projects and

15 days for *Environmental Assessments*. The *Responsible Entity* must extend the comment period to 30 days for *Environmental Assessments* if there is considerable interest or controversy or if the project is without precedent.

- 3) Once the *RROF* is received by ADOH or HUD the *objection period* begins. The *objection period* is 15 days following the receipt of the *RROF* by either ADOH or HUD.

ADOH or HUD will consider objections claiming a responsible entity's non-compliance on the grounds outlined in Section 10.3.

After the *objection period* has passed and absent grounds to deny the release of funds, ADOH or HUD will issue a written *Authority to Use Grant Funds*. Once in possession of this document the recipient may begin work on the project.

1.6 ADOH Technical Assistance

ADOH is responsible for providing technical assistance to recipients in completing the ERR process. Recipients are encouraged to request one-on-one technical assistance from ADOH staff. ADOH Program Specialists will review ERR draft letters, publications, certifications and public responses upon request. ADOH will complete reviews and respond by telephone, email or fax within 5 working days of receipt.

1.7 Monitoring and Enforcement Actions

HUD requires ADOH to regularly monitor recipients for compliance in all areas including the ERR process. This monitoring may include periodic review of the ERR file and an inspection of the project site to verify that ERR information is correct and enforcement actions have been implemented.

ADOH will undertake enforcement actions if ERR violations are noted. These can include:

- 1) Withholding funds until corrective actions are implemented;
- 2) Disallowance of costs;
- 3) Placing restrictions on future grants.

1.8 Access to and Retention of Records

Original ERR documents must be maintained by the Recipient for a minimum of five years after grant close out. These documents must be available for review and inspection by ADOH staff, HUD, their delegated representatives, and the public.

Since the purpose of the various notices is to inform the public that ERR files are available for public inspection, an incomplete ERR or no ERR at all is a valid basis for an objection and denial of a release of funds.

2.0 BEGINNING THE ENVIRONMENTAL REVIEW PROCESS

Recipients must carefully define the project or undertaking. A "project" can be a single activity or several aggregated activities. A street paving project in a neighborhood where there are several National Register (or potential NR) properties, will require the recipient to determine whether the paving will change the character or use of the historic properties through physical impacts (increased dust) or economic impacts.

The goal is to determine *all* of the potential and cumulative impacts of the project on the environment and visa versa. Thus, individual activities may need to be aggregated and the impact of other past, present and reasonably foreseeable actions need to be assessed. Cumulative impacts can result from individually minor but collectively significant actions that may take place over a period of time. Further, both direct and indirect effects of an ADOH-funded project must be reviewed to include changes in land-use patterns, population density or growth that may result from even a small activity.

2.1 Project Aggregation

A Recipient must group together and evaluate as a single project all individual activities, which are related either geographically or functionally, and are designed to accomplish one specific goal. Aggregating activities allows the Recipient to consider the combined environmental effect of a project. Aggregation will also reduce the size of the ERR and the accompanying paperwork.

When a Recipient undertakes several activities in one area or proposes a multi-year, phased project, all activities and all phases of the project must be aggregated and evaluated for their cumulative effect. All prospective federal funding years must be indicated. Thus, if a community proposes to pave certain streets in year one, and additional streets in years two and three, the initial ERR must evaluate the full extent of the paving project rather than just the first phase. If some of the components or activities are to be carried out by another entity, they should be included in the project. The final ADOH or HUD authorization to proceed covers all the activities/phases. If the scope of the project changes after the authorization is provided the ERR may have to be updated with new consultations and publications.

Examples

- A Recipient will receive ADOH funds to create a park in a Low to Moderate income (LM) neighborhood where a non-profit will be constructing new homes with USDA Rural Development (RD) funds, and the Recipient will pave streets with local funds. The "project" should include the park, the RD housing and the streets.
- ADOH funds will be used to build a senior citizen center. A private non-profit will use HOME funds to build a new senior housing project contingent upon the completion of the center. The ERR should encompass the new housing project as well as the center.
- The Recipient will pave only one street with the current ADOH grant; however, it intends to pave all the streets in the LM section of the community during the next five years with either ADOH or local funds. The ERR should encompass the paving of all streets in the LM section rather than just the street to be paved with ADOH funds.

2.2 Creating a Paper Record

Each Recipient must create and maintain a distinct file documenting the environmental review undertaken for each project and should include all of the items identified in the applicable checklist (see Section 12). This file is designated the Environmental Review Record (ERR) and must be available for public review. The ADOH contract number(s) and project name must be labeled on each file. Recipients must use the forms and public notices provided in this handbook. The ERR must document the impact of the **entire** project, not only the portion funded by ADOH.

2.3 Source Documentation

Each Environmental Review Record must contain source documentation for all determinations made. Below are some examples of acceptable types of source documentation. Each must be traceable and must establish a factual basis for the determination.

2.3.1 On-Site or Field Observation

An on-site visit usually does not involve any testing or measurements but is an important method for the initial screening of a project. The date of the visit and the person making the visit must be documented.

2.3.2 Personal Contact

This is useful when the person contacted is an acceptable authority on the subject and can be by telephone or a personal visit. Documentation must include: the date of the contact; the person making the contact; the name and title of the person contacted; an explanation as to why the person is an authority if such is not obvious (city engineer, professor of archeology); and a summary of the questions and responses.

2.3.3 Resource Materials

Detailed information can be found in comprehensive land use plans, maps, statistical surveys and studies. The materials must be current and have followed acceptable methodologies. If the actual materials are not included in the ERR, the citation should include enough information so that anyone reviewing the ERR can determine the relationship of the material to the project. The actual materials must be available for review upon request.

A special study may be conducted for an individual factor (such as an archeological survey) and must be performed by a qualified person using acceptable methodologies. If a copy of the study is not included in the ERR, its location must be stated in the ERR and it must be made available upon request.

2.3.4 Agency Review

Replies from letters sent to agencies are excellent source documentation. Public agencies are charged with specific responsibility to provide the very review that is necessary to assess impact. If this source is cited, the person's qualifications must be included along with the name, position and date the review was made.

3.0 DETERMINING A PROJECT'S ENVIRONMENTAL STATUS

Projects undertaken with federal funds are classified in one of the following four NEPA categories. The project classification is based on the nature of the project and/or the effect the project will have on the environment. Each category has different documentation and publication requirements.

Key points and time frames for completion of the ERR are:

- Exempt - (no time constraints)
- Categorical Exclusion (CE) - (50 to 77 days)
- Environmental Assessment (EA) - (45 to 84 days)
- Environmental Impact Statement (EIS) – Contact *ADOH*

Included in this section are examples of the four NEPA categories. Once the project's environmental status has been determined, the Recipient should refer to the appropriate section of this handbook for additional information specific to the category.

Note that one activity may have components that can be classified differently, e.g. the architectural component of a new rental housing will be exempt while the actual construction will be an EA. Thus a Recipient can procure the services of an engineer and spend funds for such services before the ERR on the housing construction is complete. In some cases the engineer may provide information to assist in completion of an ERR.

3.1 Exempt Activities

EXEMPT projects require the least amount of documentation and preparation. Once a project is classified as Exempt, no further environmental review is necessary but documentation of the determination must be maintained in the ERR file. See Section 4 and Section 12 for Exempt project documentation requirements. There are no publication requirements for an Exempt project or component of an activity.

3.1.1 Examples of Exempt Projects

- Environmental studies for ADOH, HOME, or other federal projects
- Resource identification and development of plans and strategies, e.g., comprehensive or recreation plans
- Information and financial services
- Administration
- The payment of principal and interest on a Section 108 loan
- Engineering and design incurred for an eligible activity
- Inspection and testing of properties for hazards or defects
- Assistance activities for imminent threats to health and safety if the activities do not alter environmental conditions; and improvements are limited to protection, repair, or restoration actions necessary only to control or arrest the effects of imminent threats or physical deterioration. (Note that this is not equivalent to an Urgent Needs project and does not include rehab activities.)

- Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs.
- The following Categorically Excluded activities are considered Exempt and do not require going through the Statutory Worksheet (Form E-4)
 - Tenant-based rental assistance
 - Supportive services including, but not limited to, health care, housing services (such as housing counseling), permanent housing placement, short term payments for rent/mortgage/utility costs, inspections and tenant selection, and nutritional services
 - Operating costs including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs
 - Equipment necessary to the operation of a service such as a fire truck, ambulance, transportation services, etc.
 - Economic development activities including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations
 - Activities to assist homeownership of existing or new dwelling units not assisted with federal funds, including closing costs and down payment assistance to home buyers, interest buy downs, and similar activities that result only in the transfer of title to a property. **If the home to be acquired is located in a floodplain Flood Insurance under the National Flood Insurance Program must be obtained and maintained for the economic life of the project, in the amount of the total project and If the home to be acquired is located in an airport clear zone a Disclosure Statement must be provided to the buyer. Copies of these documents must be maintained in the ERR.**

3.2 Categorically Excluded (CE) Activities

Projects classified as CATEGORICALLY EXCLUDED require a greater amount of documentation and the ERR process may take 50 - 77 days to complete. In many instances it may be difficult for a Recipient to easily determine whether an activity is a CE or an EA. Form E-3 is designed to assist in determining the correct classification.

3.2.1 Examples of Categorically Excluded (CE) Projects

- Removal of architectural barriers
- Rehabilitation of residential buildings, only if no change in the land use from residential to commercial and unit density does not increase by more than 20% and cost of rehabilitation is less than 75% of after rehabilitation replacement cost.
- Non residential rehabilitation (commercial, industrial, public buildings) only if no change in land use (from commercial to industrial, etc.) and facility/ improvement in place and change in size or capacity will not exceed 20%

- Replacement of water/sewer lines*
- Rehabilitation of a social service, community center, health clinic or senior center *
- Street repaving *
- Reconstruction of curbs and sidewalks *
- Rehabilitation of or improvements to existing recreational facilities *
- Reconstruction of a drainage/flood control system *
- Public services under some conditions
- Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.

* When facilities and improvements are in place and *will be retained in the same use without change in size or capacity of more than 20%*.

3.2.2 Downgrading CE Projects

Some Categorically Excluded activities may be downgraded to Exempt. A Form E-4 must be completed (see Section 14) and if the results are all "A's," the project may be considered Exempt.

3.3 Environmental Assessment (EA) ACTIVITIES

A project classified as an ENVIRONMENTAL ASSESSMENT (EA) requires a significant amount of documentation and the ERR process will take 45 - 84 days to complete. Any project that is *not* categorized as Exempt or Categorically Excluded will require an Environmental Assessment. In general, projects that require an EA are those that involve new construction, changes in land use, and major reconstruction or expansion of existing facilities (generally above a 20% increase). At the conclusion of the EA process, the Recipient may determine that the project requires an Environmental Impact Statement (EIS). If it is evident before preparing an EA that an EIS is required, the Recipient should contact ADOH.

3.3.1 Examples of Environmental Assessment Projects

- Construction of new housing
- Construction of new social service, community, or senior center or health clinic
- Construction of a new fire station or library
- Construction of a new water or wastewater system including new water wells, storage facilities, treatment plants and transmission lines
- Water or sewer line extensions (vs. replacements) and new hook-ups/tie-ins
- Construction of new drainage or flood control facilities
- Construction of new streets or substantial reconstruction to include widening by 20% or more
- Construction of new industrial or commercial facilities or significant expansions of such (even if the actual construction or expansion is privately financed and

ADOH funds are used only for equipment purchase or design/engineering costs)

- Land acquisition or demolition if there is a change in land use
- Housing Rehabilitation but *only* if there is a change in use (from non-residential to residential) or the number of units to be rehabilitated exceeds 20% or the cost of rehabilitation is more than 75% of the total cost of replacement after rehabilitation

3.4 Environmental Impact Statement (EIS)

Based on the dollar amount of most contracts, an Environmental Impact Statement (EIS) is rarely required for ADOH, ADOH and HOME projects. Examples of projects that may require an EIS include:

- A site for a hospital or nursing home containing 2,500 or more beds
- Removal, demolition, conversion or substantial rehabilitation of 2,500 or more existing housing units
- A project providing additional water or sewer capacity to support 2,500 or more additional housing units

NOTE: If, after completion of an EA, a Recipient determines that the thresholds shown above are the sole reason for an Environmental Impact Statement, it may prepare a Finding of No Significant Impact and make it available for public review for at least 30 days before making a final decision as to whether to prepare an EIS.

3.5 Housing Rehabilitation (HR)

Most owner-occupied housing rehabilitation activities are Categorically Excluded (if no change in the land use, the density does not increased beyond 4 units and the footprint of the building is not increased in a floodplain). Categorically Excluded rehabilitation projects must use the Rehabilitation Environmental Review (RER) outlined in Section 7. Non-Categorically Excluded rehabilitation projects require an Environmental Assessment outlined in Section 6.

3.6 Re-Evaluation of ERR

Changes to a project may require the Responsible Entity to conduct a Re-evaluation of the ERR. If the recipient is not the Responsible Entity the recipient must notify the Responsible entity of the project changes. The purpose of a re-evaluation is to determine if the findings in the original ERR are still valid and if a new ERR or a higher level of ERR needs to be conducted. If the original findings are still valid the ERR will only have to be amended with the new information. If the original findings are not still valid, a new ERR will have to be conducted. For example, if the Recipient determines that CE project category is no longer valid, it must prepare an Environmental Assessment or an Environmental Impact Statement.

The completion of the Re-evaluation of ERR (E-14) will determine whether an amended ERR or a new ERR is required. The Re-evaluation of ERR must become part of the ERR record.

A Responsible Entity must re-evaluate its environmental findings using form E-14 to determine if the original findings are still valid when any of the following conditions apply:

1. It makes a substantial (greater than 35%) change in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project and its cost estimate
2. There are new circumstances and/or environmental conditions which may affect the project or have a bearing on its impact
3. The Recipient selects an alternative not considered in the original Environmental Assessment or Categorical Exclusion

An ERR is valid for a period of three years. A Recipient can continue an ongoing activity, such as housing rehabilitation, for three years without completing a new ERR provided substantial changes have not occurred which would render the ERR findings invalid

ADOH does not issue another Authority to Use Grant Funds for amended ERRs.

3.7 Relocation Costs

Costs for relocation may be incurred prior to the Release of Funds for the activity or project provided that:

- The payment of relocation costs is required by 24 CFR Part 42
- The costs were incurred after a Recipient received a grant award letter from ADOH. The application must have included the relocation activity in the Recipient's projected range of activities and in the projected use of funds.

4.0 EXEMPT PROJECTS

By using the checklist that appears in Section 12, the Recipient will ensure that the ERR contains the correct forms and proper documentation.

4.1 Automatically Exempt Projects

4.1.1 Required Forms

- E-1 Project Narrative
- E-2 Documentation of Exemption
- E-3 Environmental Review Determination Form
- E-3.1 Level of Environmental Review
- E-13 Authority to Use Grant Funds

NOTE: Forms should be completed and provided to ADOH only if the entire project is Exempt. If only a component of a project is exempt (e.g. engineering, administration, appraisal) no forms are necessary for that component.

4.1.2 Publications/Notices

ADOH does not issue an Authority to Use Grant Funds for automatically exempt components of an activity or for Administration activities, only for the activity itself. No publications are required and no RROF need be submitted.

4.1.3 Approximate Timeline

When a project is determined to be Automatically Exempt, the only time involved is that to complete forms E-1, E-2, E-3 and E-3.1.

4.2 Downgraded Exempt Projects

A project can be downgraded from Categorically Excluded to Exempt if there are no circumstances that require compliance with federal laws. This is the case is all boxes in Form E-4 checked in the "A" column. By using the checklist that appears in Section 12, the Recipient will ensure that the ERR contains the correct forms and proper documentation.

4.2.1 Required Forms

- E-1 Project Narrative
- E-2 Documentation of Exemption
- E-3 Determination Form
- E-3.1 Level of Environmental Review
- E-4 Statutory Checklist
- E-10 Letters as required by form E-4
- E-13 Authority to Use Grant Funds

4.2.2 Publications/Notices

No publications are required and no RROF need be submitted. However, the Recipient must submit to ADOH Forms E-1 through E-11, as applicable, and ADOH will then issue an Authority to Use Grant Funds (E-13), effective the date the E-2 is signed by the CERTIFYING OFFICER.

Comment periods are counted in calendar days and begin one day *after* the day of publication.

4.2.3 Approximate Timeline

- Day 1 Complete Project Narrative (E-1), Determination Form (E-3), Level of Environmental Review (E-3.1), Mail letters to agencies for comments (E-4 and E-10)
Allow 35 days for response time
- Day 36 Final day for receiving responses to E-10 letters
- Day 37 Complete forms E-2, E-3, E-3.1 and E-4 to be signed by CERTIFYING OFFICER. Project now downgraded from Categorical Exclusion (CE) to Exempt. Mail E-1, E-2, E-3, E-3.1 and all other documents to ADOH. Release of Funds date effective the date the CERTIFYING OFFICER signs the E-2

5.0 CATEGORICALLY EXCLUDED (CE) PROJECTS

By using the checklist that appears in Section 12, the Recipient will ensure that the ERR contains the correct forms and proper documentation.

5.1 Required Forms

- E-1 Project Narrative
- E-3 Determination Form
- E-3.1 Level of Environmental Review
- E-4 Statutory Checklist (If no mitigation or violation was identified from consultations related to the Statutory Checklist (Form E-4) – all boxes checked A, the activity can be downgraded to exempt.
- E-9 Administrative Record (if applicable)
- E-10 Letters as required by form E-4
- E-12 Request for Release of Funds and Certification
- E-13 Authority to Use Grant Funds (issued by ADOH or HUD)
- E-14: Re-Evaluation of ERR (if applicable)
- E-P.1 Floodplains/Wetlands Notice (if applicable)
- E-P.2 Notice of Intent to Request Release of Funds (NOI/RROF)
OR
- E-P.3 NOI/RROF and Notice of Decision Regarding Project to be Located in Floodplain or Wetlands

5.2. Publications/Notices

5.2.1 Floodplain/Wetlands Notice

Before the publication process begins, determine if the project is located in or will impact on a 100-year floodplain or a wetland (see Section 8). If yes, the Recipient must first publish the Floodplain/Wetland Notice (E-P.1) in a local newspaper.

5.2.2 Newspaper Publication NOI/RROF

A Notice of Intent to Request Release of Funds (NOI/RROF, form E-P.2 or E-P.3) must be published at least once in a general circulation newspaper. When a regularly published local newspaper does not serve the jurisdiction, it must be published in a regional or state newspaper and prominently displayed at the local post office, its substations, and other public buildings. The publication informs the general public of the following.

- 1) An ERR has been conducted by a *Responsible Entity* and it is available for review.
- 2) Comments can be made to the *Responsible Entity* before it requests a release of funds from ADOH or HUD. The comment period is seven (7) days.
- 3) Objections can be made to ADOH or HUD regarding the release of funds. The objection period is 15 days following the receipt of the *Request for Release of Funds* by either ADOH or HUD.

Comments must be taken into consideration by the *Responsible Entity* prior to submitting a Request for Release of Funds and Certification to ADOH or HUD. The day ADOH or HUD receive the Request for Release of Funds and Certification is the day the 15-day objection period begins. The two periods do *not* run concurrently. Funds can not be released until 15 days after ADOH or HUD receives this notice OR the end of the objection period stated in the NOI/RROF, whichever is later. Comment periods are counted in calendar days and begin one day *after* the day of publication.

5.3 Approximate Timeline

Day 1	Complete Project Narrative (E-1), Determination Form (E-3), Level of Environmental Review (E-3.1), Mail letters to agencies for comments (E-4 and E-10). Allow 35 days for response time. If project located in a floodplain or wetland, publish Floodplains/Wetlands Notice (E-P.1)
Day 16	Final day for receiving comments on Floodplain/Wetlands Notice (EP-1)
Day 36	Final day for receiving responses to E-10 letters
Day 37	Complete Statutory Checklist (E-4). Finalize paperwork for ERR and mail copy of completed ERR forms, responses, and draft E-P.2 or E-P.3 to ADOH for review
Day 40	ADOH receives and reviews ERR packet (allow 10 working days)
Day 50	ADOH notifies Recipient if publication is accurate
Day 51	ADOH or Recipient publishes approved publication (E-P.2, E-P.3). Lead time for publication dates of local newspapers must be taken into consideration when developing a timeline!
Day 59	Local review/comment period ends (seven (7) days)
Day 60	A RROF & Certification (E-12) <i>with original signature</i> ; copy of Notice (E-P.2 or E-P.3) as published; and affidavit of publication is sent to ADOH or HUD. (These items should be sent as soon as possible after the local comment period ends. Before issuing an Authority to Use Grant Funds, ADOH or HUD is required to wait 15 days from receipt of the RROF or until the day after the objection period, whichever is longer.)
Day 61	Begins 15-day period for objections to be submitted to ADOH or HUD
Day 76	Objection period ends
Day 77	ADOH or HUD prepares and mails Authority to Use Grant Funds (E-13)

If the project is not located in a floodplain/wetlands, this process can be completed in 30 - 45 days. However, the above timetable is more realistic and allows ample time for document preparation and agency responses.

6.0 ENVIRONMENTAL ASSESSMENT (EA) PROJECTS

By using the checklist that appears in Section 12, the Recipient will ensure that the ERR contains the correct forms and proper documentation.

6.1 Required Forms

- E-1 Project Narrative
- E-3 Determination Form
- E-3.1 Level of Environmental Review
- E-4 Statutory Checklist
- E-9 Administrative Record (if applicable)
- E-10 Letters as required by form E-4
- E-11 Environmental Assessment Checklist
- E-12 Request for Release of Funds and Certification
- E-13 Authority to Use Grant Funds (issued by ADOH or HUD)
- E-14 Re-Evaluation of ERR (if applicable)
- E-P.1 Floodplains/Wetlands Notice (if applicable)
- E-P.4 Concurrent Notice of FONSI & Intent to Request Release of Funds
OR
- E-P.5 Concurrent Notice of FONSI, Intent to Request Release of Funds, and
Decision Regarding Project Located in Floodplain/Wetlands

6.2 Publications/Notices

6.2.1 Floodplain/Wetlands Notice

Before the publication process begins, determine if the project is located in or will impact on a 100-year floodplain or a wetland (**see Section 8**). If yes, the Recipient must first publish the Floodplain/Wetland Notice (E-P.1) in a local newspaper.

6.2.2 Concurrent Notice: FONSI & NOI/RROF

The Concurrent Notice (combined Finding of No Significant Impact and Notice of Intent to Request Release of Funds, form E-P.4 or E-P.5) must be published at least once in a general circulation newspaper. When a regularly published local newspaper does not serve the jurisdiction, it must be published in a regional or state newspaper and prominently displayed at the local post office, its substations, and other public buildings.

The publication informs the general public of the following.

- 1) An ERR has been conducted by a *Responsible Entity* and it is available for review.
- 2) Comments can be made to the *Responsible Entity* before it requests a release of funds from ADOH or HUD. The *comment period* is fifteen (15) days. The Responsible Entity must extend the comment period to 30 days if there is considerable interest or controversy or if the project is without precedent.
- 3) Objections can be made to ADOH or HUD regarding the release of funds. The *objection period* is 15 days following the receipt of the *Request for Release of Funds* by either ADOH or HUD.

Comments must be taken into consideration by the *Responsible Entity* prior to submitting a Request for Release of Funds and Certification to ADOH or HUD. The day ADOH or HUD receive the Request for Release of Funds and Certification is the day the 15-day objection period begins. The two periods do *not* run concurrently. Funds can not be released until 15 days after ADOH or HUD receives this notice OR the end of the objection period stated in the

NOI/RROF, whichever is later. Comment periods are counted in calendar days and begin one day *after* the day of publication.

NOTE: Prior approval from ADOH is recommended before publishing any notices.

6.3 Approximate Timeline

Day 1	Complete Project Narrative (E-1), Determination Form (E-3), Level of Environmental Review (E-3.1), Mail letters to agencies for comments (E-4 and E-10). Allow 35 days for response time. If project located in a floodplain or wetland, publish Floodplains/Wetlands Notice (E-P.1)
Day 16	Final day for receiving comments on Floodplain/Wetlands Notice (EP-1)
Day 36	Final day for receiving responses to E-10 letters
Day 37	Complete Statutory Checklist (E-4) and Environmental Assessment Checklist (E-11). Finalize paperwork for ERR and mail copy of completed ERR forms, responses, and draft Concurrent Notice (E-P.4 or E-P.5) to ADOH for review
Day 40	ADOH receives and reviews ERR information (allow 10 working days)
Day 50	ADOH staff notifies Recipient if forms are complete and publication is accurate
Day 51	Publish approved publication (Form E-P.4 or E-P.5) and mail a copy of the notice to the U.S. EPA and any other known interested parties and individuals. Lead time for publication dates of local newspapers must be taken into consideration when developing a timeline!
Day 66	Local review/comment period ends (15 days)
Day 67	A RROF & Certification (E-12) <i>with original signature</i> ; copy of Notice (E-P.4 or E-P.5) as published; and affidavit of publication is sent to ADOH or HUD. (These items should be sent as soon as possible after the local comment period ends. Before issuing an Authority to Use Grant Funds, ADOH or HUD is required to wait 15 days from receipt of the RROF or until the day after the objection period, whichever is longer.)
Day 68	ADOH or HUD receives RROF & Certification, etc. and this begins the 15-day period for the public to submit objections to ADOH
Day 83	Objection period ends
Day 84	ADOH or HUD prepares and mails Authority to Use Grant Funds (E-13).

If the project is not located in a floodplain/wetlands, this process can be completed in 30 - 45 days. However, the above timetable is more realistic and allows ample time for document preparation and agency responses.

6.5 Environmental Assessment Finding

At the culmination of the Environmental Assessment process, which is documented by completing form E-11, the Recipient must make either a Finding of No Significant Impact (FONSI) or a Finding of Significant Impact, in which the project is deemed to be an action that *may* affect the quality of the human environment. If the environmental review results in a Finding of Significant Impact, contact ADOH for further instructions regarding the preparation of an Environmental Impact Statement (EIS).

Reasons supporting a Finding of No Significant Impact (NOI) and a decision not to prepare an Environmental Impact Statement (EIS) will vary with the nature of the project, and when and how it will be implemented. Recipients must ensure that the reasons stated on form E-11 and in the Finding of No Significant Impact/Concurrent Notice (E-P.4/5) accurately reflect the results of the local decision making process, and are fully supported by documentation in the ERR. Listed below are possible reasons to support a Finding of No Significant Impact:

- This proposed project will cause some increase in noise, dust or other nuisance levels during [demolition/construction or rehabilitation]; however, such a disturbance(s) will be temporary and will cease upon the completion of the activities, which cause them.
- The proposed project will not affect any known local, state or national historic, architectural or archaeological resource presently listed or potentially eligible for listing in the National Register of Historic Places or in any state or local Registry.
- The project to be undertaken will not affect or be affected by a 100-year floodplain or a wetland.
- There will be no negative impacts on the physical or socioeconomic environment as a result of this proposed project.

The Recipient must consult with relevant state and federal agencies, abide by regulations applicable to the project, and take other actions as required under federal laws. Again, all actions should be documented and made a part of the Environmental Review Record.

7.0 HOUSING REHABILITATION PROJECTS

Most owner-occupied housing rehabilitation activities are Categorically Excluded (if no change in the land use and the footprint of the building is not increased in a floodplain). Categorically Excluded rehabilitation projects must use the Rehabilitation Environmental Review (RER) outlined in this Section. Non-Categorically Excluded rehabilitation projects require an Environmental Assessment outlined in Section 6.

The RER requires the completion of an E-HR.1 followed by a publication of a Notice of Intent to Request a Release of Funds. After an Authority to use Grant Funds is provided by HUD or ADOH an Appendix A (E-HR.2) is to be completed for each project site. For rehabilitation projects located in a floodplain with construction costing more than 50% of the before rehabilitation value of the structure an 8 step process is required (form (E-9).

By using the checklist that appears in Section 12, the Recipient will ensure that the ERR contains the correct forms and proper documentation.

7.1 Required Forms for RER

E-1	Project Narrative
E-3	Determination Form
E-HR.1	Rehabilitation Environmental Review
E-9	Administrative Record (if the project is located in a floodplain/wetlands)
E-12	Request for Release of Funds and Certification
E-13	Authority to Use Grant Funds (issued by ADOH or HUD)
E-14	Re-Evaluation of ERR (if applicable)
E-HR.2	Appendix A for each project thereafter
E-P.1	Floodplains/Wetlands Notice (if applicable)
E-P.2	Notice of Intent to Request Release of Funds (NOI/RROF)
	OR
E-P.3	NOI/RROF and Notice of Decision Regarding Project to be Located in Floodplain or Wetlands

7.2 Publications/Notices

7.2.1 Floodplain/Wetlands Notice

Before the publication process begins, determine if the project is located in or will impact on a 100-year floodplain or a wetland (see Section 8). If yes, the Recipient must first publish the Floodplain/Wetland Notice (E-P.1) in a local newspaper.

7.2.2 Newspaper Publication NOI/RROF

A Notice of Intent to Request Release of Funds (NOI/RROF, form E-P.2 or E-P.3) must be published at least once in a general circulation newspaper. When a regularly published local newspaper does not serve the jurisdiction, it must be published in a regional or state newspaper and prominently displayed at the local post office, its

substations, and other public buildings. The publication informs the general public of the following.

- 1) An ERR has been conducted by a *Responsible Entity* and it is available for review.
- 2) Comments can be made to the *Responsible Entity* before it requests a release of funds from ADOH or HUD. The comment period is seven (7) days.
- 3) Objections can be made to ADOH or HUD regarding the release of funds. The objection period is 15 days following the receipt of the *Request for Release of Funds* by either ADOH or HUD.

Comments must be taken into consideration by the *Responsible Entity* prior to submitting a Request for Release of Funds and Certification to ADOH or HUD. The day ADOH or HUD receive the Request for Release of Funds and Certification is the day the 15-day objection period begins. The two periods do *not* run concurrently. Funds can not be released until 15 days after ADOH or HUD receives this notice OR the end of the objection period stated in the NOI/RROF, whichever is later. Comment periods are counted in calendar days and begin one day *after* the day of publication.

7.3 Approximate Timeline

Day 1	Complete Project Narrative (E-1) and Determination Form (E-3). Prepare and publish Floodplain/Wetlands Notice (E-P.1) if any of the proposed projects are in a 100-year floodplain.
Day 2	Complete the Rehabilitation Environmental Review (E-HR.1)
Day 16	Final day for receiving comments on Floodplain/Wetlands Notice, if applicable.
Day 17	Complete the Administrative Record if applicable (E-9)
Day 18	Mail copy of completed ERR forms; draft E-P.2 or E-P.3 to ADOH for review and approval.
Day 21	ADOH receives and reviews ERR packet (allow 10 working days)
Day 31	ADOH notifies Recipient if draft publication is accurate.
Day 32	Recipient or ADOH publishes approved publication (E-P.2 or E-P.3). Lead time for publication dates of local newspapers must be taken into consideration when developing a timeline.
Day 40	Local review/comment period ends. (7 days)
Day 41	A RROF & Certification (E-12) <i>with original signature</i> ; copy of Notice (E-P.2 or E-P.3) as published; and affidavit of publication is sent to ADOH or HUD. (These items should be sent as soon as possible after the local comment period ends. Before issuing an Authority to Use Grant Funds, ADOH or HUD is required to wait 15 days from receipt of the RROF or until the day after the objection period, whichever is longer.)
Day 42	Begins 15-day period for objections to be submitted to ADOH or HUD
Day 57	Objection period ends
Day 58	ADOH or HUD prepares and mails Authority to Use Grant Funds (E-13)
	Appendix A should be completed <i>before obligating funds for any individual HR home or building</i>

8.0 PROJECTS LOCATED IN FLOODPLAINS OR WETLANDS

Executive Orders 11988 and 11990 "... assure that Federal programs avoid adverse impacts on wetlands and floodplains; minimize destruction, loss or degradation of wetlands; preserve and enhance the natural and beneficial values of wetlands; reduce risk of flood loss; minimize the impact of floods on human safety, health, and welfare; and to the extent possible, restore the natural and beneficial values served by floodplains." The Water Resources Council implementation guidelines provide for:

- Early information to the public if a project will be located in a floodplain or wetlands and/or will indirectly affect a floodplain or wetlands;
- A clear decision making process to include a review of all practicable alternatives; and
- Notification to the public of the final decision regarding the project. (The guidelines are not intended to prohibit floodplain or wetlands development.)

In addition, HUD's rule to implement E.O. 11988 on floodplain management allows for provision of direct or indirect federal assistance only when there is no practicable alternative to floodplain development or any action that would adversely affect a floodplain area.

NOTE: E.O. 11998 does not apply if the Federal Emergency Management Agency (FEMA) has issued either a "Letter of Map Amendment" (LOMA), or a "Letter of Map Revision" (LOMA) for a project site located within a Special Flood Hazard Area.

8.1 Definitions

100-year floodplain: The floodplain of concern for HUD programs which is the area subject to a 1% or greater chance of flooding in any given year.

500-year floodplain: The minimum floodplain of concern for Critical Actions which is the area subject to inundation from a flood having a 0.2% chance of occurring in any given year.

Base floodplain: 100-year floodplain

Critical action: Any activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property. Critical actions include activities that create, maintain or extend the useful life of those structures or facilities that:

- Produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials;
- Provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone areas); or
- Are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events, e.g., persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers.

Floodway: That portion of the floodplain, which is effective in carrying flow, where the flood hazard is generally the greatest, and where water depths and velocities are the highest. The term "floodway" as used here is consistent with "regulatory floodways" as identified by FEMA.

High hazard area: A floodway or a coastal high hazard area.

Wetlands: an area that meets the following three characteristics:

- It is flooded permanently or periodically
- It has predominately submerged vegetation
- It has water saturated soil

8.2 Consider the Alternatives

When a project will be located in a designated floodplain, the following eight steps must be completed to demonstrate that there is no practicable alternative to the project.

1. **Determine the Project Location.** The Recipient must determine whether the proposed project is located in or will impact on a 100-year floodplain/wetland or in a 500 year floodplain (if it is a critical action). This can be done by reviewing a detailed Flood Insurance Rate Map (FIRM) or a Flood Hazard Boundary Map (FHBM), both of which are available from the National Flood Insurance Program (administered by the Federal Insurance Administration of HUD) or a wetlands map available from the U.S. Fish and Wildlife Service. If the project is not located in a floodplain/wetlands, but could impact on such directly or indirectly (e.g., supporting floodplain development), then the Recipient must proceed with the remaining seven steps in this process.
2. **Notices to the Public.** A notice must be published in a newspaper of general circulation and copies posted in public places (town hall, post office, and library). Copies must also be sent to federal, state and local organizations and individuals known to be interested in the project. See Section 13 for the notice (E-P.1) format. Note that this notice should be one of the first steps in the ERR process as it is required before any other notices are published.
3. **Identify and Evaluate Practicable Alternatives.** During the 15-day comment period required in the E-P.1 notice, all alternatives of the proposed project must be identified and evaluated. At least three alternatives should be evaluated:
 - Alternative sites (if the floodplain/wetlands site is the only alternative, this must be fully documented)
 - Alternative actions (new solutions or approaches which would serve the same function but have less potential for harm)
 - No action (proceed with the project as planned)
4. **Identify Potential Impacts.** Potential impacts should be identified and include both direct impacts (the location of the structure in the floodplain/wetlands) and indirect impacts (infrastructure outside the floodplain/wetlands which would encourage development within it). Positive and negative impacts should be reviewed as well as short and long term consequences.
5. **Minimize, Restore and Preserve.** Again, this process should be documented as part of the development of the ERR to show that the Recipient reviewed ways to minimize harm to lives and property, natural and beneficial floodplain or wetlands values, and ways to restore and preserve the floodplain or wetlands.

All critical actions in the 500-year floodplain shall be designed and built at or above the 100-year floodplain (in the case of new construction) and modified to include:

- Preparation of and participation in an early warning system;
 - An emergency evacuation and relocation plan;
 - Identification of evacuation route(s) out of the 500-year floodplain; and
 - Identification marks of past or estimated flood levels on all structures.
6. ***Re-evaluate the Proposed Project.*** Once the impact of the proposed project and the methods to minimize, restore and preserve floodplain or wetlands values have been identified, the proposed action must be re-evaluated. If the originally proposed location is the only practicable alternative, the importance of the proposed project must outweigh the requirements of the Executive Orders.
 7. ***Public Notice of the Decision.*** If the Recipient decides that the only practicable alternative for the proposed project is within the floodplain or wetlands or it will impact on such, it must publish a second public notice (see Section 13)
 8. ***Implementation.*** The project can be implemented after the public comment period and receipt of a Release of Funds from ADOH.

8.3 Examples

Project	8-Step Process Required	8-Step Process Not Required
Housing development and acquisition	1) Acquisition, reconstruction, demolition, new construction	1) Minor amendment to a previously approved action with no additional adverse impact on or from a floodplain or wetland.
Housing acquisition and/or rehab	1) Acquisition 2) Rehabilitation a) 5 or more units, or b) 1-4 dwelling units per site; cost is >50% of the value of the structure <u>before</u> rehab; increase in unit density is >20%	1) Minor repair or improvements: 1-4 dwelling units per site; cost is <50% of the value of the structure before rehab; no increase in unit density >20%. 2) An action for interim assistance or emergency activities to provide necessary protection and control risk or damage.
Commercial rehab and development	1) Any construction and landscaping activities that are located within the floodplain	1) Any proposed construction-landscaping activities not occurring in the floodplain. 2) Minor amendment to a previously approved action with no additional adverse impact on or from a floodplain.
Public Facilities - acquisition and rehabilitation	1) Acquisition 2) Rehabilitation 3) Minor Repairs or Improvements (i.e. curb cuts)	1) Not Applicable 2.b) An action for interim assistance or emergency activities to provide necessary protection and control risk or damage.
An incidental portion of the project is within floodplain	1) Construction and landscaping activities will occupy or modify the floodplain.	1) Construction and landscaping activities (i.e., minor grubbing, clearing of debris, pruning, sodding, seeding, etc.) will not occupy or modify the floodplain, provision is made for site drainage, AND a property covenant or restriction preserves the floodplain.

9.0 SECTION 106 – HISTORIC PRESERVATION

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires that a recipient of federal funds consider the effects of the undertaking or project on properties included in or eligible for the National Register (NR) and consult with appropriate entities in making that decision. Revised Section 106 regulations, effective June 17, 1999, significantly expanded the role of tribal entities to include Tribal Historic Preservation Officers (THPOs). THPOs and other tribal entities must now be given an opportunity to comment on all proposed undertakings in areas to which they claim cultural affinity, which includes areas outside of tribal lands. Further, the revised regulations clarified the role of the Advisory Council (AC), which should now be invited to join the consultation process only in instances in which the Recipient and the State Historic Preservation Officer (SHPO)/THPO fail to reach an agreement on ways to address the adverse effects of an undertaking/project.

The purpose of Section 106 is to identify potential conflicts between historic preservation needs and a Recipient's community development objectives. To resolve such conflicts in the public interest, consultation between the Recipient, SHPO, THPO, other tribal entities, and other interested parties is encouraged during all phases of the project. For guidance on modifying historic properties, two publications are available from SHPO: *Standards for the Rehabilitation of Historic Structures* and *Guidelines for Rehabilitating Historic Buildings*.

It is important to understand that the Section 106 Process does not require preservation in every case, nor does it give the SHPO, THPO, or AC veto power over a Recipient's actions. However, it does require input from and consultation with entities with expertise regarding historic properties. Thus, the Recipient's final decision should take into consideration historic values and options available to protect historic properties, and should balance the projected public benefit of the project against the public benefit of preservation. A Recipient's certifying officer *cannot* delegate the decision to approve a project in opposition to AC comments.

9.1 Definition of Historic Property

Historic property is defined as: any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register. It also includes artifacts, records and remains that are related to and located within such properties. The term "eligible for inclusion" in the NR includes properties formally determined as such by the Secretary of the Interior and all other properties that meet NR listing criteria.

9.2 Major Steps

If the project will impact on historic properties, the following steps are required:

1. Define the Area of Potential Effect (APE) (usually the project's service area).
2. Consult with the SHPO, relevant tribes, local historic preservation societies, and other appropriate organizations, individuals and entities to determine if there are any historic properties that may be affected by the project or any properties that may be on or eligible for inclusion on the NR. The SHPO, THPO or other tribal entity must be **allowed 45 days** to comment on the proposed activity if the Recipient has determined that a property on or eligible for the NR will be affected.
3. Evaluate the information gathered to determine whether any NR or NR eligible properties exist. If the SHPO, THPO, other relevant tribes, and the Recipient agree that there are no such properties the review is complete.

IF NO AGREEMENT, NOTIFY ADOH IMMEDIATELY AND PROCEED TO #4.

4. If the SHPO, THPO, relevant tribe and the Recipient do *not* agree on the NR status, the Recipient may seek a formal determination of eligibility from the Secretary of the Interior through the National Park Service (NPS). If the NPS determines there are *no* eligible properties, the review is complete. However, if the NPS determines there *are* eligible properties, then additional consultation is required.
5. If the property is determined to be eligible, then there must be a determination as to the *effect* of the project. There are two items to consider: 1) will there be an effect; and 2) if yes, will it be an adverse effect? In all instances, the SHPO, THPO, relevant tribes when appropriate, and the AC must be consulted and allowed adequate time to respond as specified in the regulations.
6. When an adverse effect has been determined, a Memorandum of Agreement will be executed between the Recipient, the SHPO and, if necessary, the AC and/or relevant tribe.

9.3 Definitions of Effect and Adverse Effect

9.3.1 Effect

- There is an effect whenever any condition of the project causes or may cause any change, beneficial or adverse, in the quality of the historical, architectural, archeological or cultural characteristics that qualify the property to meet the criteria of the National Register.
- There is an effect when an undertaking changes the integrity of location, design, setting, materials, quality of work or work product, feeling, or association of the property that contributes to its significance in accordance with the NR criteria.
- Direct effects include those caused by the project and occur at the same time and place. Indirect effects include those caused by the project that are later in time or farther removed in distance, but are still reasonably foreseeable, such as changes in the pattern of land use, population density or growth rate that may affect properties of historical, architectural, archeological or cultural significance.

9.3.2 Adverse Effect

- Destruction, damage, or alteration of all or part of the property.
- Alteration of a property that is not consistent with applicable SHPO guidelines.
- Removal of the property from its historic location.
- Change of the property's use or of physical features within the property's setting that contribute to its historic significance.
- Introductions of visual, audible, or atmospheric elements that are out of character with the property or may alter its setting.
- Neglect of a property that may result in its deterioration or destruction.
- Transfer, lease, or sale of the property without adequate conditions or restrictions regarding preservation, maintenance or use.

10.0 RELEASE OF FUNDS/OBJECTIONS

10.1 Obligation of Funds and Release of Funds (ROF)

Recipients may obligate or expend project funds on the following without a Release of Funds/Approval to Obligate Memorandum:

- Administration
- Engineering
- Architectural Services
- Appraisals and similar actions

In all other instances, the ERR must be completed before the Recipient can request the release of funds and before it can obligate or expend any federal or private funds. ADOH funds obligated or expended on non-exempt activities will be disallowed.

A Request for Release of Funds and Certification (E-12) can only be approved 15 calendar days after ADOH receives the RROF or 15 days from the time specified in the published notice, whichever is later. An affidavit of publication for published notices must accompany the RROF. The Recipient cannot submit a RROF and Certification before the date in the notice; and submission significantly after that date will delay ADOH approval due to the 15-day waiting period.

10.2 Objection Period

Any person or agency may object to a Request for Release of Funds and Certification. However, the objections must meet the conditions and procedures set forth in this section and all decisions by ADOH shall be final. All objections must be received by ADOH within 15 days from the time ADOH receives a Recipient's Request for Release of Funds and Certification, or within the time period specified in the notice, whichever is later.

10.3 Bases for Objections

The *only* instances when ADOH will disapprove a RROF and Certification is:

- The Recipient's Certifying Officer did not in fact execute the certification.
- The Recipient failed to make a finding that the project had either a significant impact or no significant impact.
- The Recipient omitted one or more steps in the preparation and completion of an Environmental Assessment.
- No opportunity was given to the Advisory Council on Historic Preservation to review the effect of the project on a property listed in the *National Register of Historic Places* (or found to be eligible for such listing by the Secretary of the Interior).
- The environmental circumstances or the project itself has changed and the Recipient failed to include the written decision required in the ERR or its decision is not supported by facts specified by the objecting party.
- Another federal or state agency has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

10.4 Objections Procedure

A person or agency objecting to a Request for Release of Funds and Certification shall:

- Submit objections in writing to ADOH.
- Include the name, address and telephone number of the person or agency submitting the objections. The objections should be signed and dated by the person or authorized official of an agency.
- Describe the basis for the objections and the facts or legal authority supporting the objections.
- State when a copy of the objections were mailed or delivered to the recipient's Certifying Officer.

10.5 ADOH Actions

When ADOH receives objections meeting the requirements previously outlined, staff will notify the Recipient in writing that funds will not be released until the objections have been resolved as determined by ADOH. The Recipient may then respond to these objections in writing within a specified time period.

If the Recipient submits a timely response, ADOH will review it and issue a written determination. A copy of the decision shall be mailed to the Recipient and to the person or agency submitting the objections. If ADOH finds the objections to be invalid, the Release of Funds will be mailed to the Recipient and retroactive to the original date.

If the Recipient does not respond within the time period specified, or if ADOH determines that the response does not adequately address the objections, ADOH shall notify the Recipient (in writing) that no funds for the project will be released until:

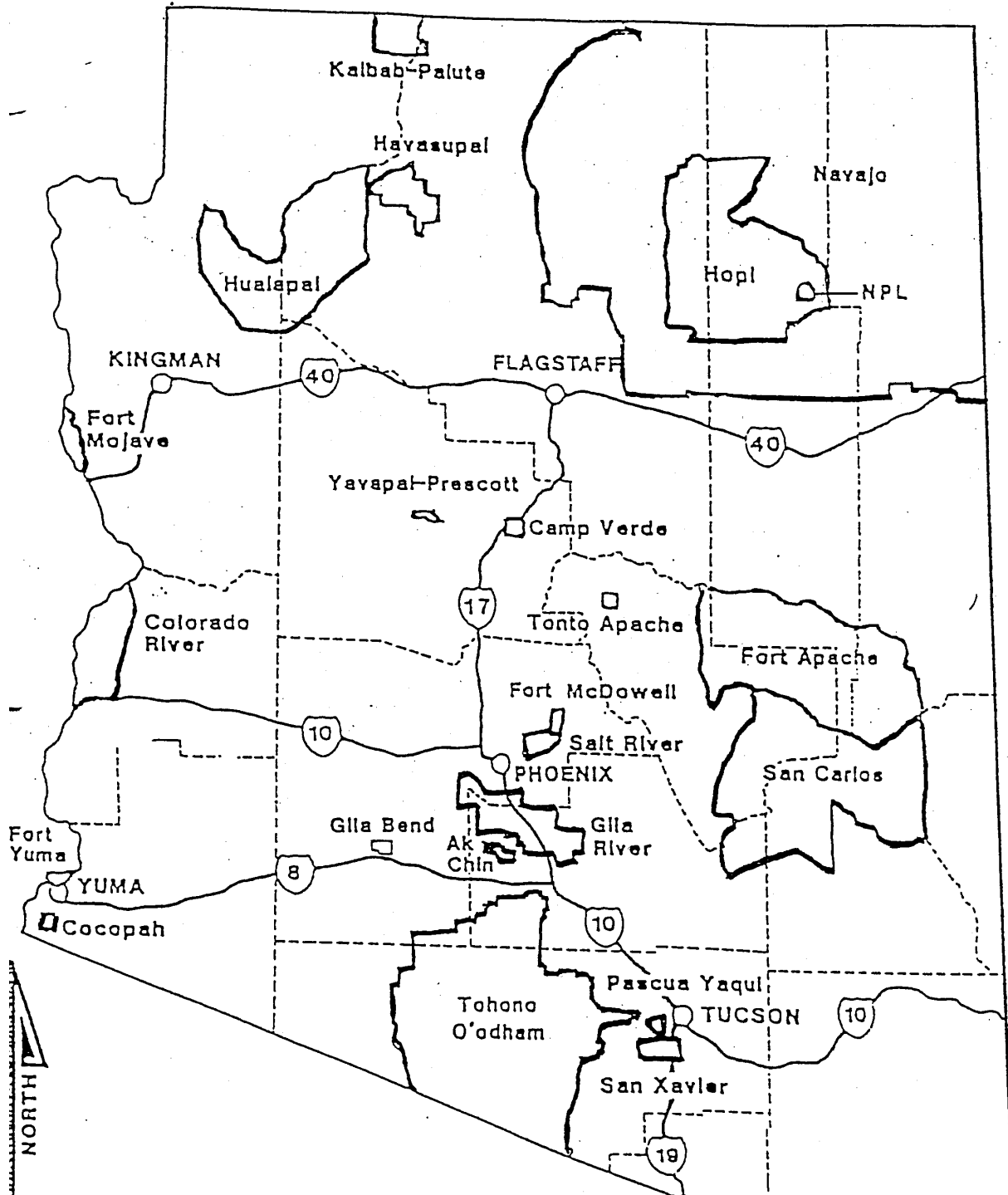
- a response is received and ADOH determines that it adequately addresses the objections or
- the Recipient takes appropriate measures to redress the objections, (e.g., insures that the Certifying Officer executes the certification, completes all the steps in the Environmental Assessment, or provides an opportunity for the Advisory Council on Historic Preservation to comment on a project listed).

When ADOH receives documentation that the Recipient has taken the appropriate steps to address the objections, ADOH will issue a new determination and shall issue a Release of Funds (ROF). Copies of all correspondence shall also be mailed to the person or agency filing the objection.

The decision of ADOH regarding objections is final. Persons and agencies seeking redress in relation to environmental reviews covered by an approved certification (i.e., a project that has received an ROF from ADOH) shall contact the Recipient directly. ADOH will refer inquiries and complaints to the Recipient and its Certifying Officer.

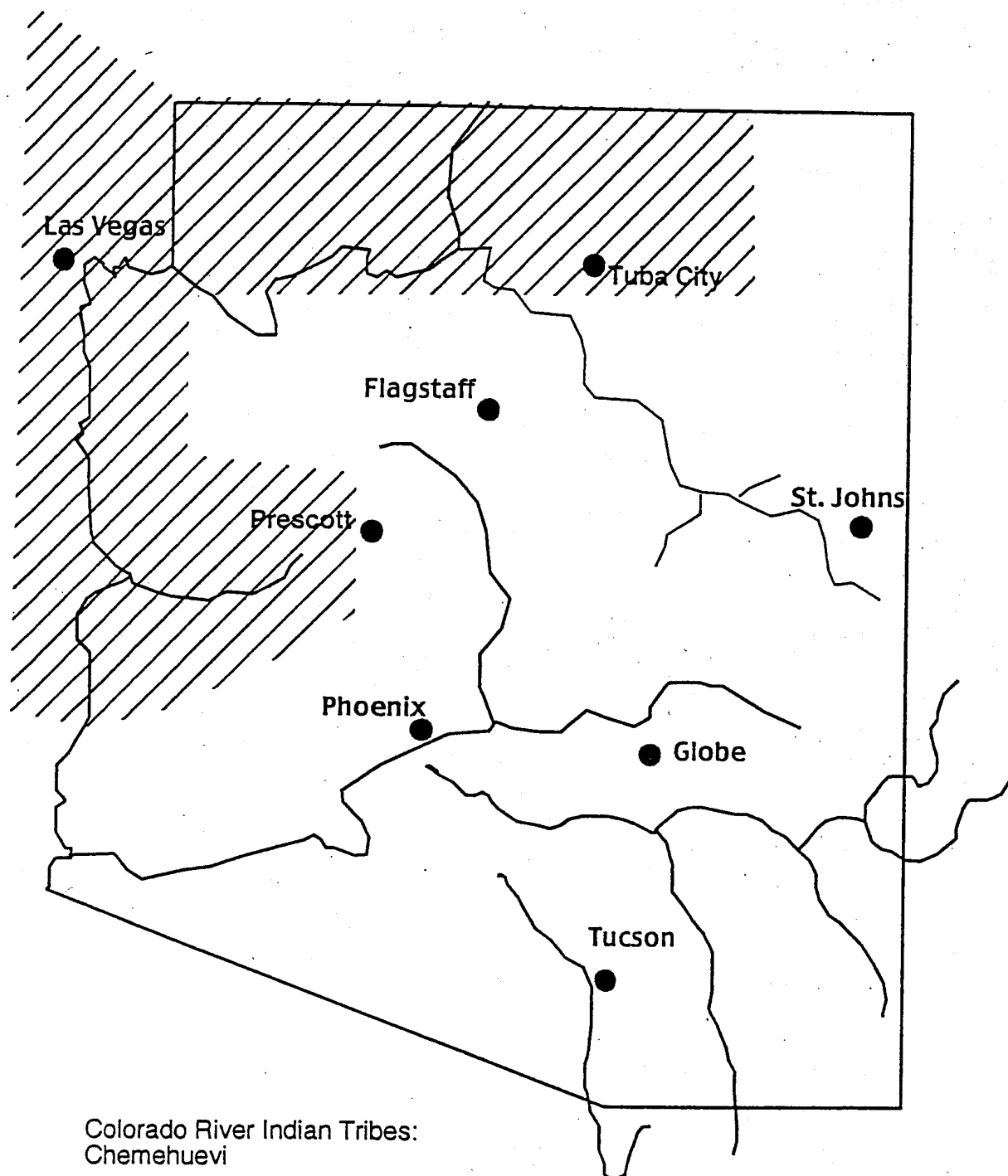
11.0 TRIBAL CLAIMS MAPS & TRIBAL CONTACTS

Indian Reservations in Arizona



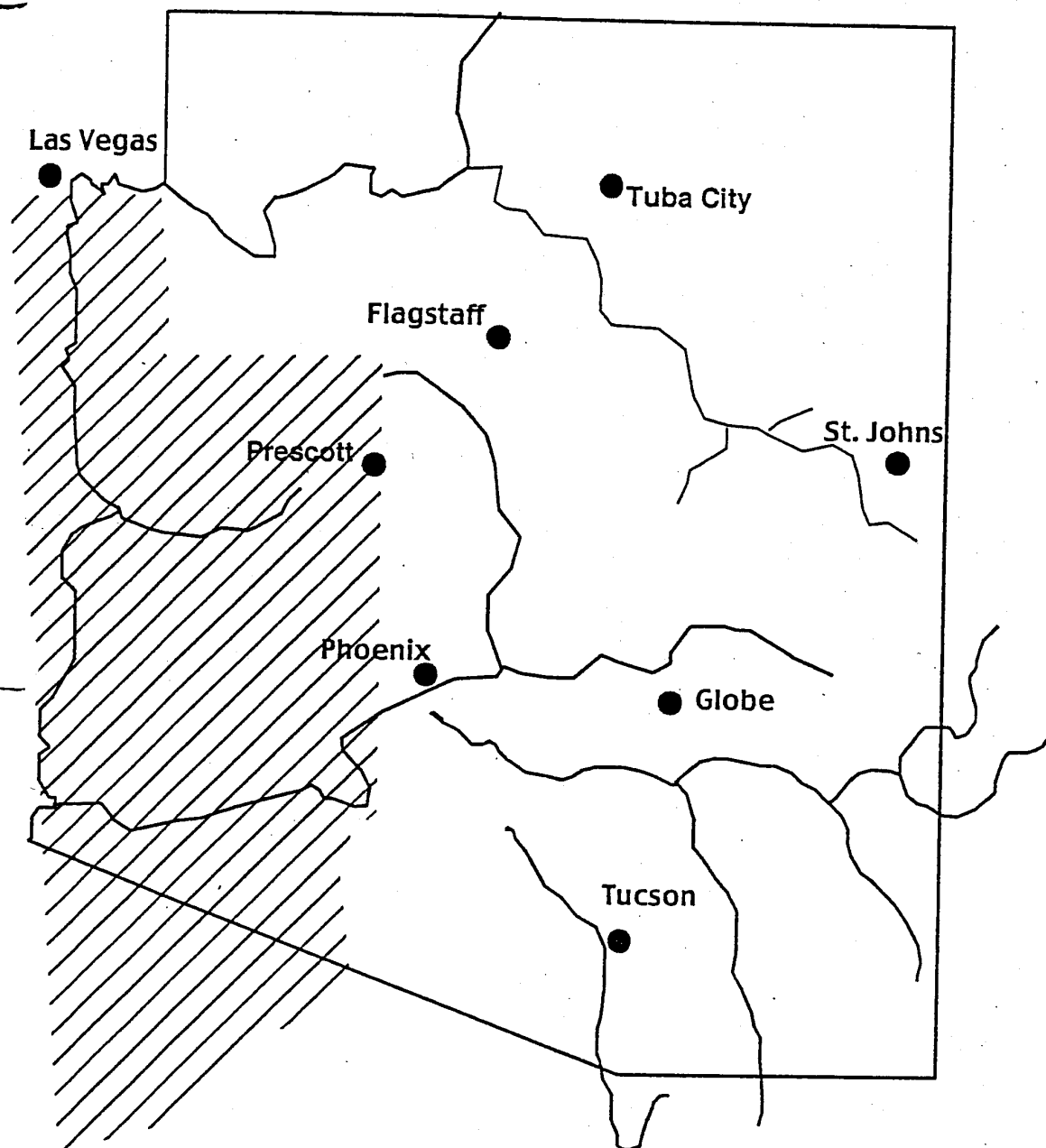
INDIAN RESERVATIONS IN ARIZONA

Colorado River Indian Tribes: Chemehuevi



The Colorado River Indian Tribes provided a map dated 27 June 2000 indicating the above area in which cultural affiliation is claimed by C RIT Chemehuevi.

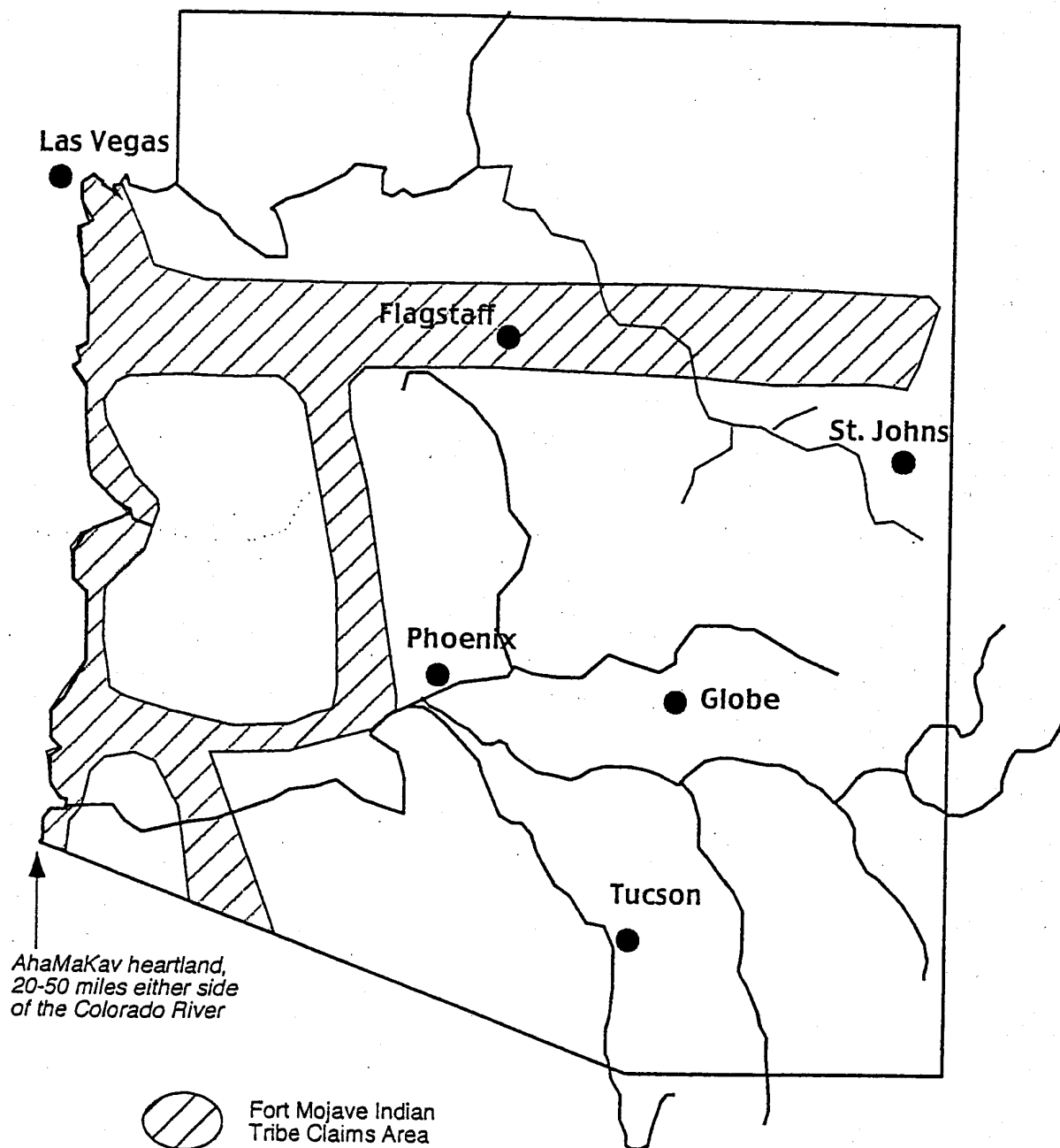
Colorado Indian Tribes: Mohave



Colorado River Indian Tribes: Mohave

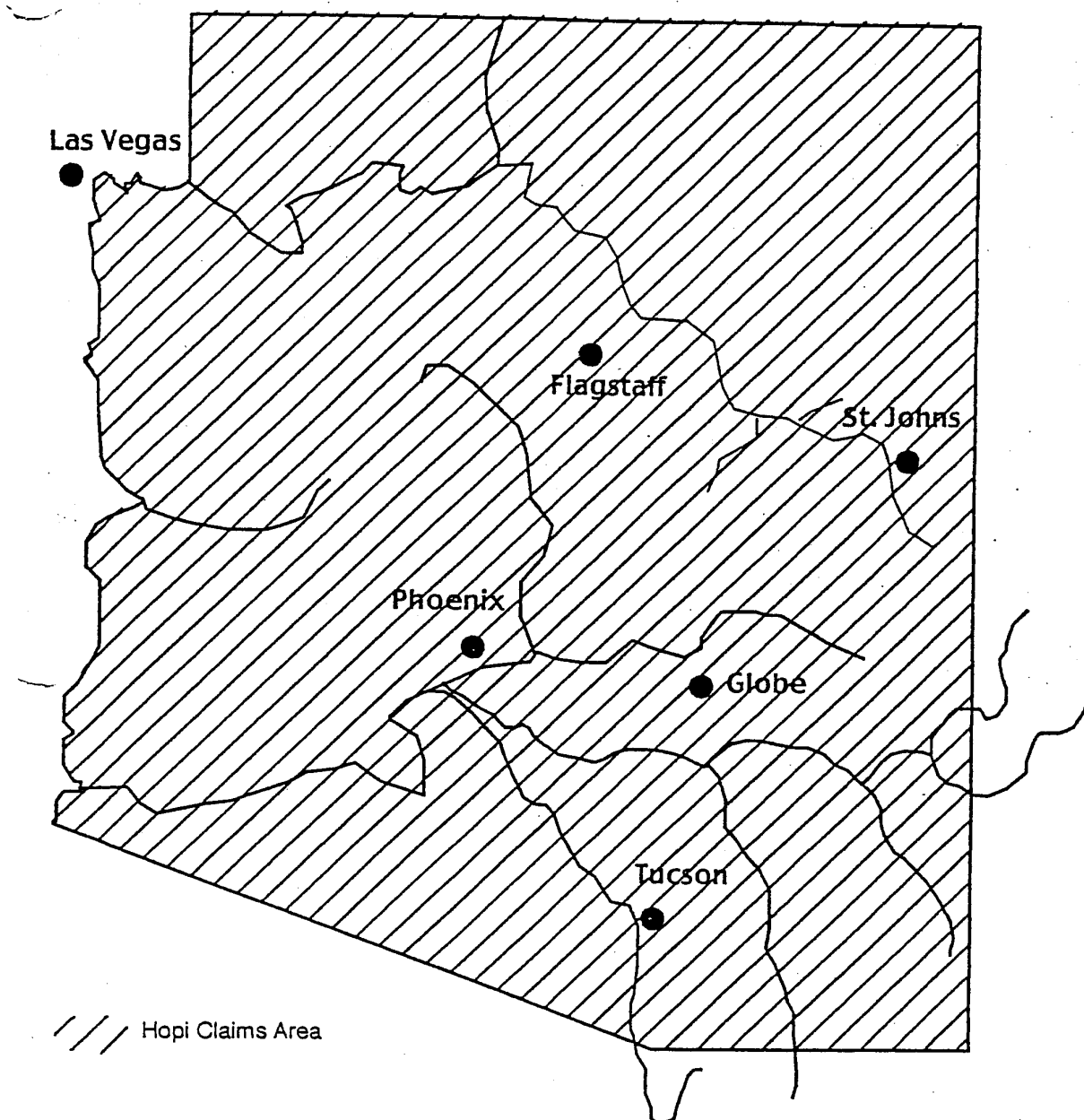
The Colorado River Indian Tribes provided a map dated June 27, 2000, indicating the above Mohave claims area.

Fort Mojave Indian Tribe Claims Area



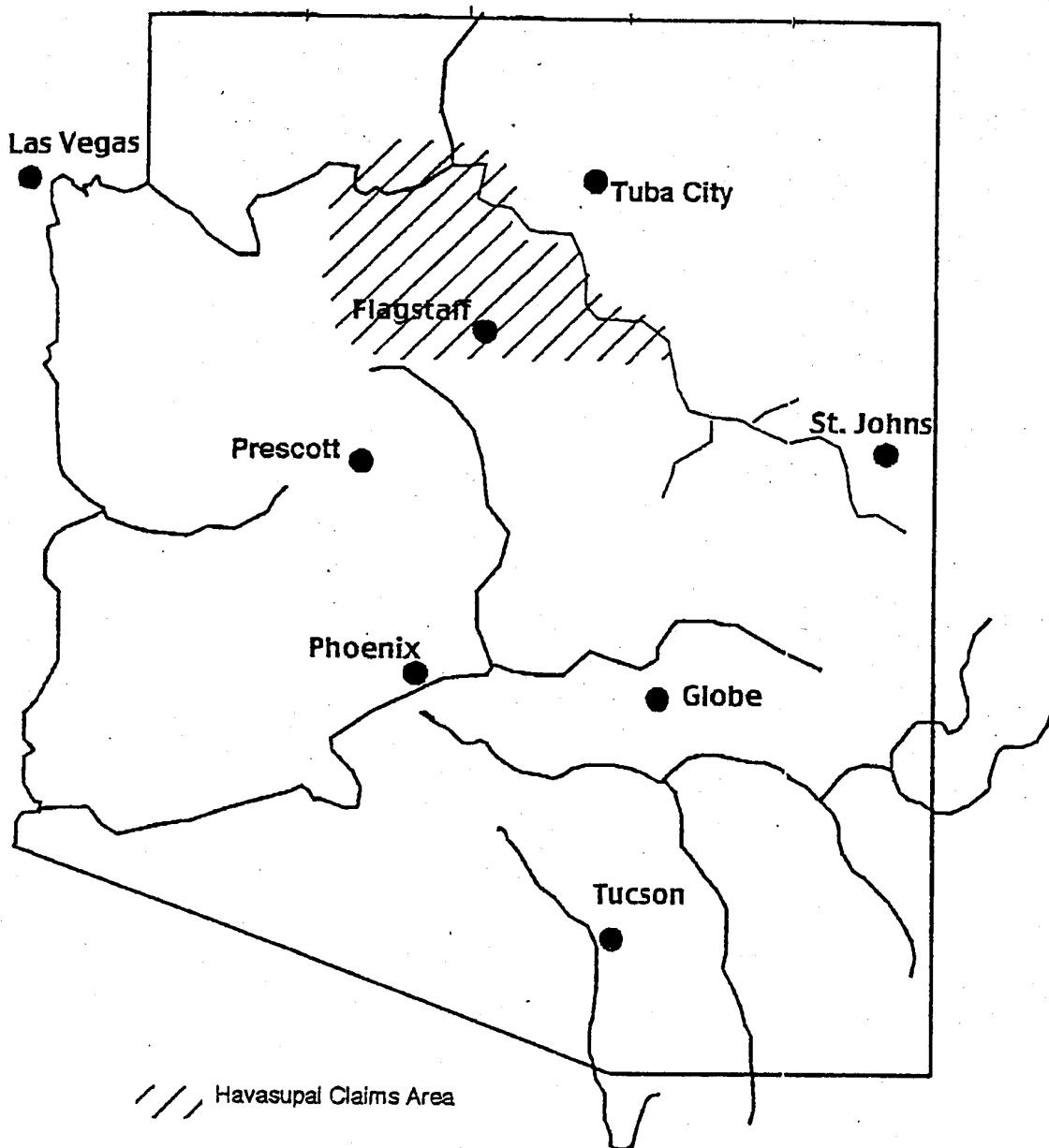
This is based on information received in September 2000. The Mojave claim cultural affiliation with the AhaMaKav peoples, ancestral Yuman (regarding "Patayan" and "Hakatayan" as incorrect designations). Their claims area includes the AhaMaKav heartland, from Hoover Dam to Blythe, 20 to 50 miles on either side of the Colorado River. They also claim cultural affiliation with "NAGRA related items" on trade routes from Northern California to Zuni MN and from Santa Barbara CA to Guaymas or Culiacan.

Hopi Claim Areas



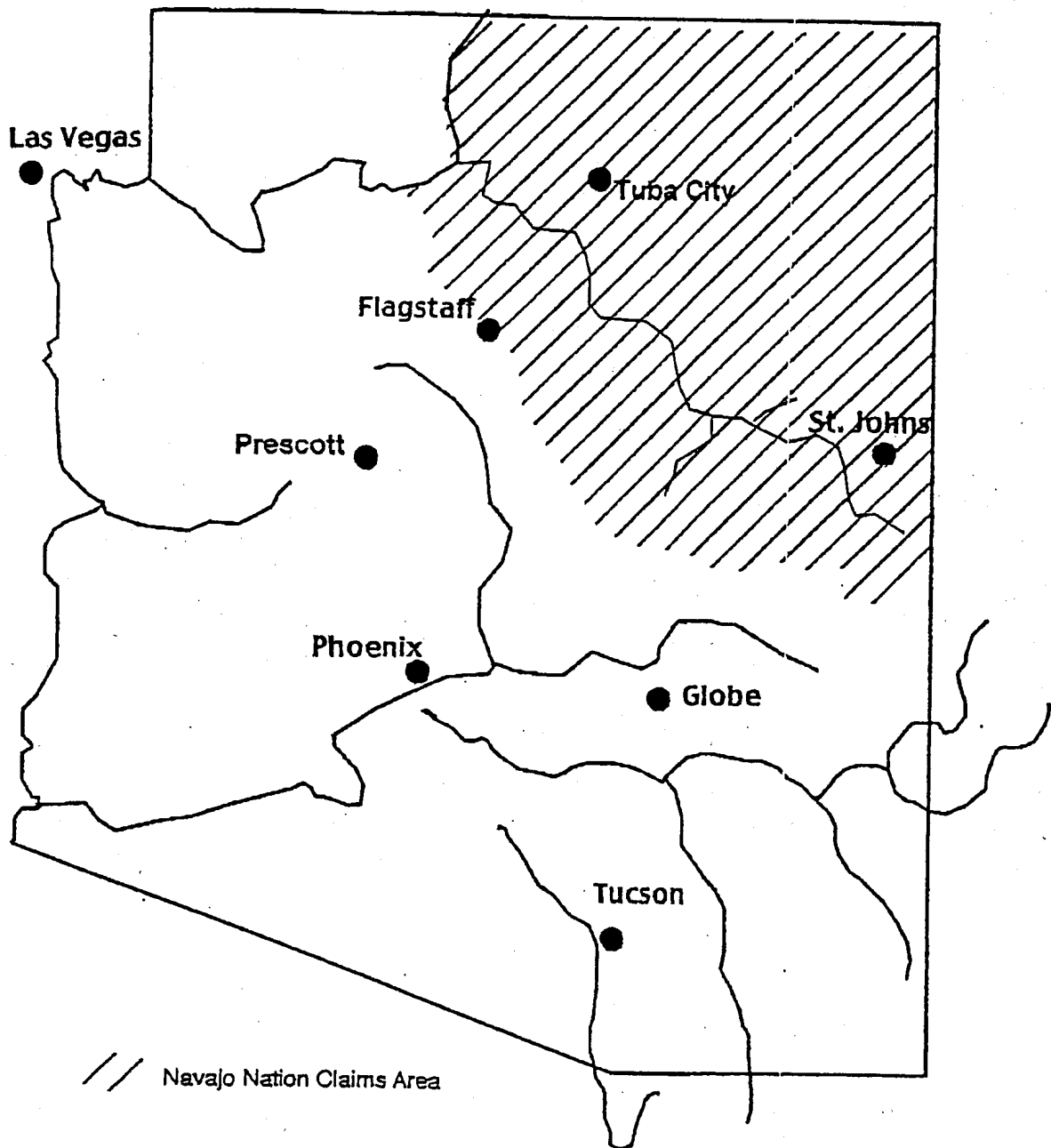
This map is based upon information provided by the Hopi Office of Cultural Preservation.

Havasupai Claims Area



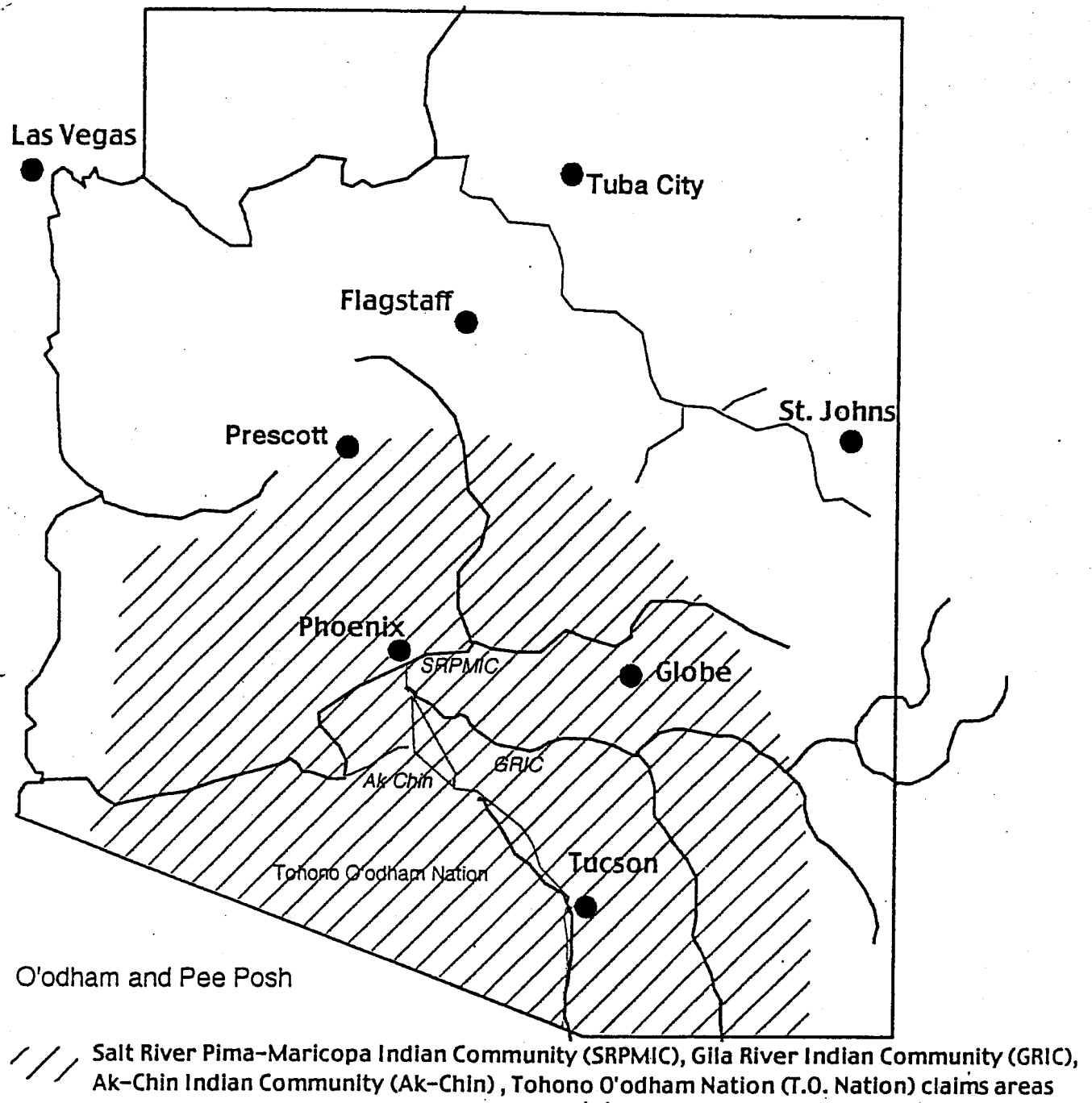
The Havasupai claims area shown here is based upon a map provided by the Havasupai Tribe in July 2000.

Navajo Claims Area

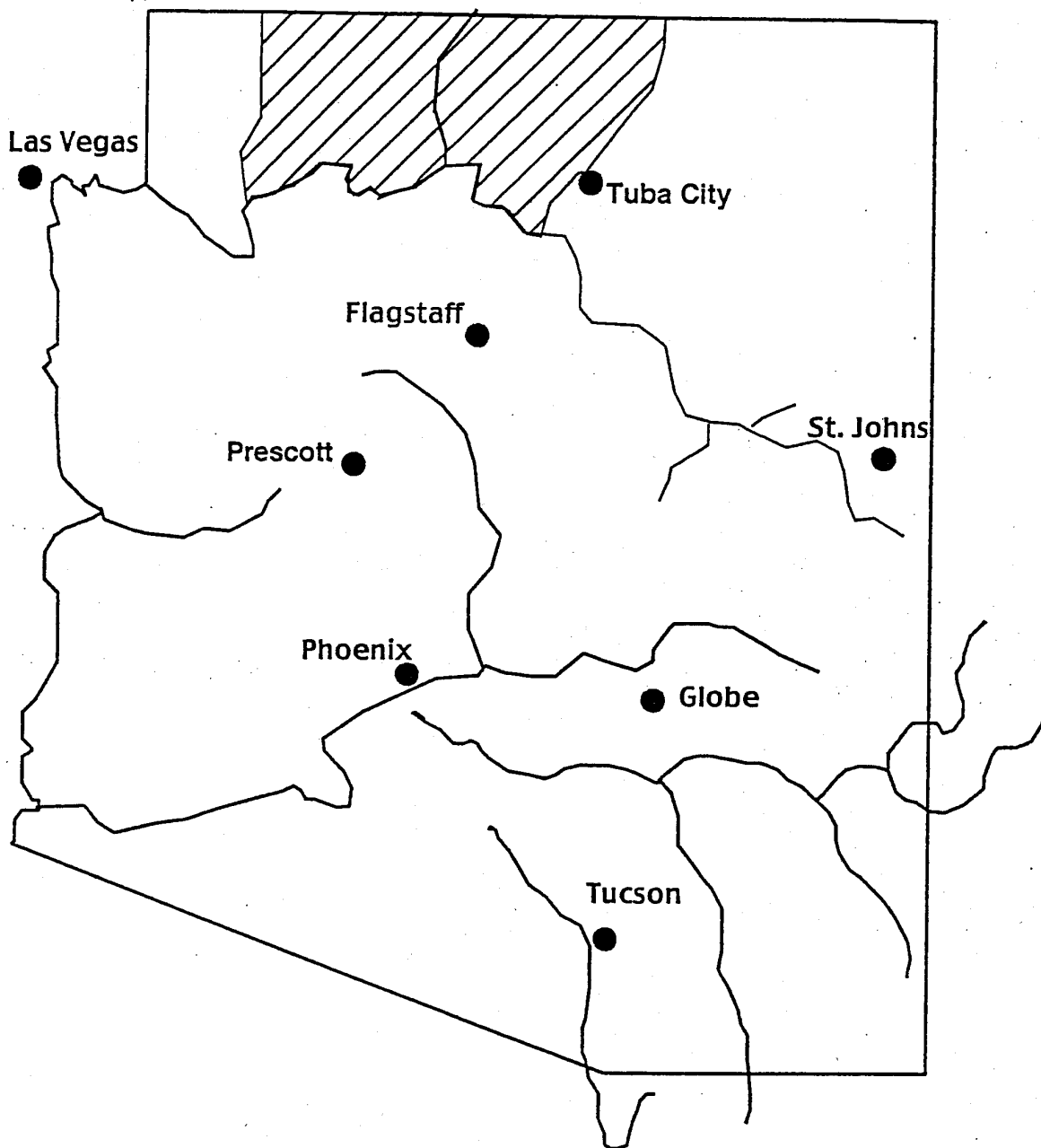


This map is based on a map of the Navajo Nation provided to ASM in August 2000.

O'odham And Pee Posh Claims Area



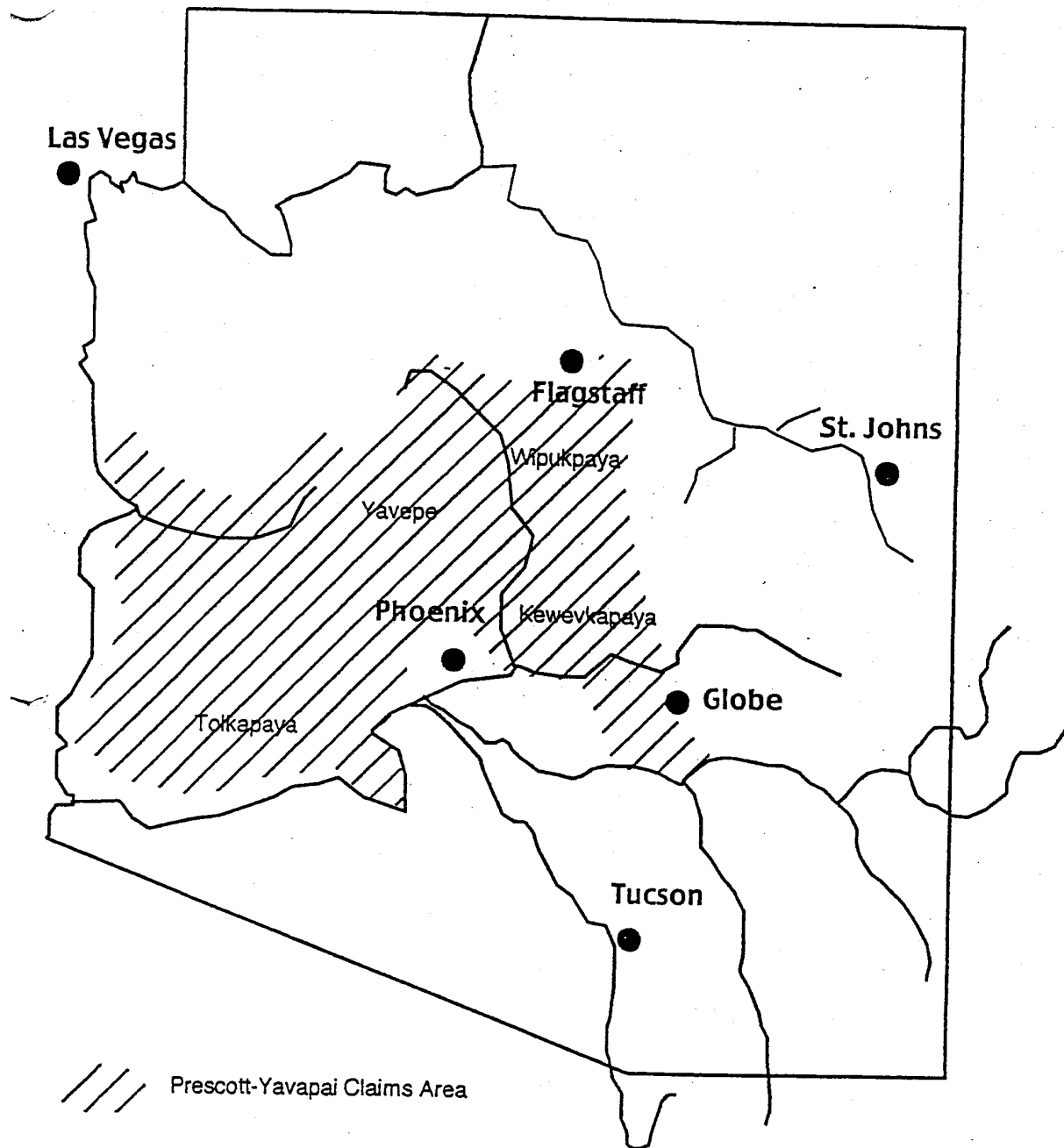
Kaibab-Paiute Area



Kaibab-Paiute Area

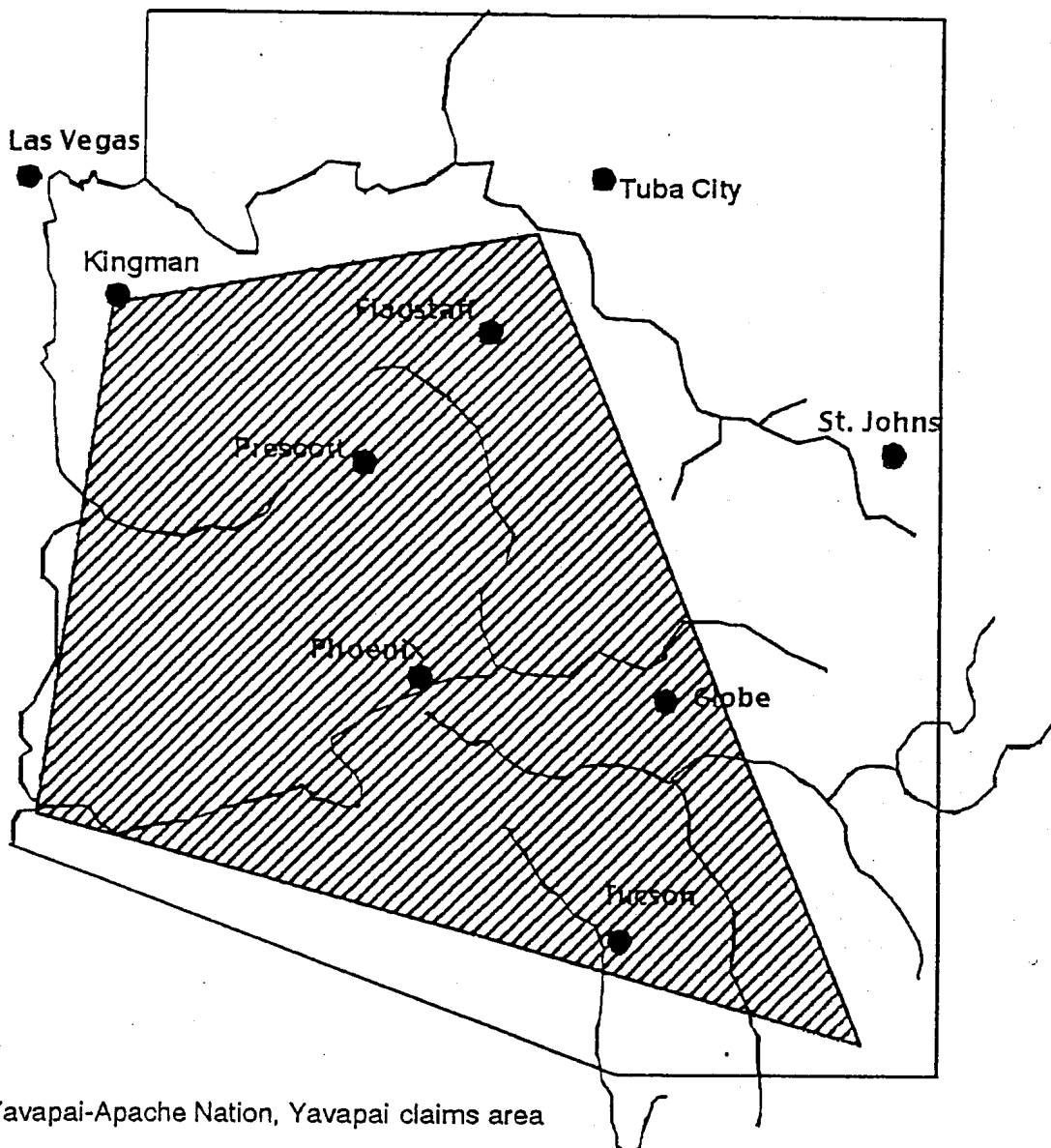
This map is based upon a map provided to the Arizona State Museum in 1992.

Prescott-Yavapai Claims Area



This claims area is taken from a map provided by the Yavapai-Prescott Tribe in July 2000, revising maps provided in 1998 and 1991. The Yavapai-Prescott claim Patayan-Yavapai and Sinagua cultural affiliation.

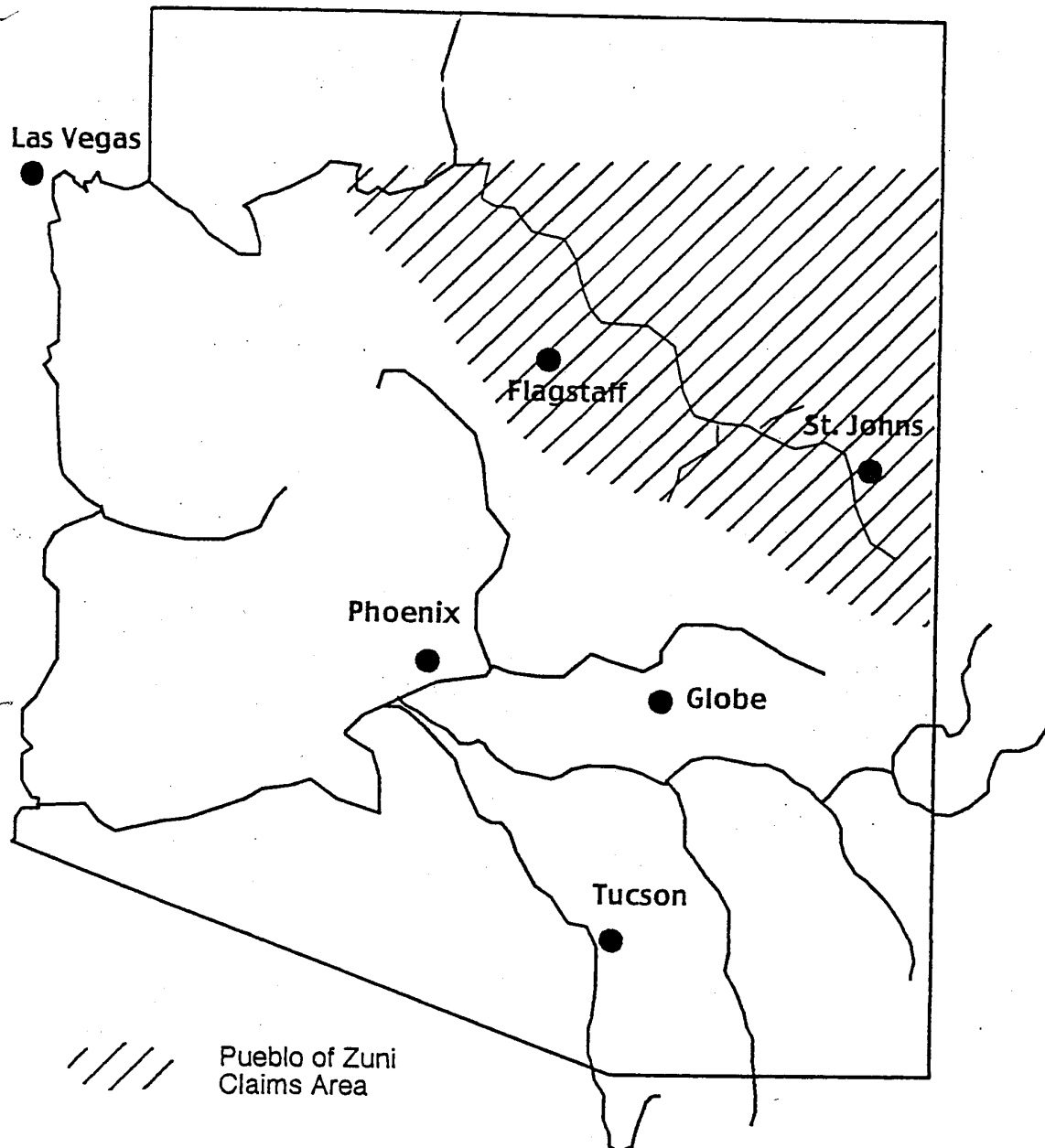
Yavapai Apache Nation, Yavapai Claims Area



Yavapai-Apache Nation, Yavapai claims area

The Yavapai of the Yavapai-Apache Nation, Camp Verde AZ, wish to be consulted on all prehistoric archaeological resources and burials in the area indicated above, as well as all historic archaeological resources and burials that are of American Indian origin in the same area. This is based upon a memo dated 26 March 2001 to the Arizona State Museum, and on a conversation between Katherine Marquez of the Yavapai-Apache Nation and the Coordinator, ASM, on 30 April 2001.

Pueblo of Zuni Claims Area



This map is taken from information provided by Councilman Anthony Otto Lucio in a telephone conversation on July 14, 2000. Councilman Lucio indicated that the Pueblo of Zuni is not interested in claims outside their traditional land use area. He indicated that the claims area should encompass St. Johns and Showlow to the south, the Grand Canyon to the west, and Woodruff Butte. That information has been supplemented by information from A Zuni Atlas by T. J. Ferguson and E. Richard Hart, University of Oklahoma Press, 1985. The Atlas shows the Zuni land use area encompassing the area north of Mogollon Rim between the San Francisco Peaks on the west and the Sandia Mountains on the east, and falling principally south of the confluence of the Colorado and Little Colorado rivers.

Arizona State Historic Preservation Office (SHPO) - List Of Arizona Tribal Leadership And Cultural Resource Contacts

ARIZONA STATE HISTORIC PRESERVATION OFFICE (SHPO)
TRIBAL LEADERSHIP AND CULTURAL RESOURCE DIVISION CONTACT LIST
(Updated 3/22/2004) Page 1 of 6

TRIBE	CHAIR/PRESIDENT/GOVERNOR	CULTURAL RESOURCE DIVISION CONTACTS
Ak-Chin Indian Community	Terry O. Enos, Chair Delia Carlisle, Vice-Chair Ak-Chin Indian Community Council 42507 W Peters & Nail Rd Maricopa, AZ 85239 Phone: 520/568-2618 Fax: 520/568-4566	Elaine Peters, Director Nancy Nelson, Cultural Resource Manager Ak-Chin Him Dak Eco Museum & Archives 47685 N Eco Museum Rd Maricopa, AZ 85239 Phone: 520/568-9480 Fax: 520/568-9557
Chemehuevi Indian Tribe	Edward D. (Tito) Smith, Chairman Chemehuevi Tribal Council P.O. Box 1976 Havasupai Lake, CA 92362 Phone: 760/858-4219 Fax: 760/858-5400	NAGPRA Committee Chemehuevi Tribal Council P.O. Box 1976 Havasupai Lake, CA 92363 Phone: 760/858-4301 Fax: 760/858-5400
Cocopah Tribe	Sherry Cordova, Chair Dale Phillips, Vice-Chair Cocopah Tribal Council County 15th & Avenue G Somerton, AZ 85350 Phone: 928/627-2061 Fax: 928/627-1617	Lisa Wanstall, Museum Director Cocopah Museum County 15th & Avenue G Somerton, AZ 85350 Phone: 928/627-1992 Fax: 928/627-2280 E-mail: museum@cocopah.com
Colorado River Indian Tribes (CRIT)	Daniel Eddy, Jr., Chair Russell Welsh, Vice-Chair Colorado River Tribal Council Route 1, Box 23-B Parker, AZ 85344 Phone: 928/669-9211 Fax: 928/669-5675	Betty Cornelius, Director Colorado River Indian Tribes Museum Route 1, Box 23-B Parker, AZ 85344 Phone: 928/669-1339 Fax: 928/669-1082 Viola Stone, Coordinator Mohave Elders Committee Route 1, Box 23-B Parker, AZ 85344 Phone: 928/669-3072
Fort McDowell Yavapai Nation	Dr. Clinton Pattea, President Bernadine Boyd, Vice-President Fort McDowell Yavapai Nation P.O. Box 17779 Fountain Hills, AZ 85269 Phone: 480/837-5121 Fax: 480/837-1630	Karen Ray Cultural Development Department Fort McDowell Yavapai Nation P.O. Box 17779 Fountain Hills, AZ 85269 Phone: 480/816-7810 Fax: 480/816-6089 Email: kray@fortmcdowell.org

Arizona State Historic Preservation Office (SHPO) - List Of Arizona Tribal Leadership And Cultural Resource Contacts (continued)

**ARIZONA STATE HISTORIC PRESERVATION OFFICE (SHPO)
TRIBAL LEADERSHIP AND CULTURAL RESOURCE DIVISION CONTACT LIST**
(Updated 3/22/2004) Page 2 of 6

TRIBE	CHAIR/PRESIDENT/GOVERNOR	CULTURAL RESOURCE DIVISION CONTACTS
Fort Mojave Indian Tribe	Nora McDowell, Chair Llewellyn Barrackman, Vice-Chair Fort Mojave Tribal Council 500 Merriman Avenue Needles, CA 92363 Phone: 760/629-4591 Fax: 760/629-2468 or 4323	Chad A. Smith, Archeologist Linda Otero, Director Ahamakav Cultural Society Fort Mojave Indian Tribe P.O. Box 5990 (10225 S Harbor Ave) Mojave Valley, AZ 86440 Phone: 928/768-4475 Fax: 928/768-7996
Fort Sill (Chiricahua) Apache Tribe	Jeff Houser, Chairperson Fort Sill Apache Tribe Route 2, Box 121 Apache, OK 73006 Phone: 580/588-2298 Fax: 580/588-3133	Leland Michael Darrow, Historian Fort Sill Apache Tribe Route 2, Box 121 Apache, OK 73006 Phone: 580/588-2298 Fax: 580/588-3133
Fort Yuma-Quechan Tribe	Mike Jackson, Jr., President Keeny Escalanti, Sr., Vice President Fort Yuma-Quechan Tribe P.O. Box 1899 Yuma, AZ 85366 Phone: 760/572-0213 Fax: 760/572-2102	Pauline Jose Fort Yuma-Quechan Tribal Museum (350 Picacho Rd; Winterhaven CA) P.O. Box 1899 Yuma, AZ 85366 Phone: 760/572-0661 Fax: 760/572-2102
Gila River Indian Community (GRIC)	Richard Narcia, Governor Mary Thomas, Lt. Governor Gila River Indian Community P.O. Box 97 Sacaton, AZ 85247 Phone: 520/562-6000 Fax: 520/562-6010	Barnaby V. Lewis, Cultural Resource Specialist or Angela Garcia, Assistant Specialists Gila River Indian Community Cultural Resources Management Program P.O. Box 2140 Sacaton, AZ 85247 Phone: 520/562-3570 (B. Lewis) or 562-3571 (A. Garcia or E. Vincent) Fax: 520/562-3576

Arizona State Historic Preservation Office (SHPO) - List Of Arizona Tribal Leadership And Cultural Resource Contacts (continued)

ARIZONA STATE HISTORIC PRESERVATION OFFICE (SHPO)
TRIBAL LEADERSHIP AND CULTURAL RESOURCE DIVISION CONTACT LIST
 (Updated 3/22/2004) Page 3 of 6

TRIBE	CHAIR/PRESIDENT/GOVERNOR	CULTURAL RESOURCE DIVISION CONTACTS
Havasupai Tribe	Don Watahomagie, Chairperson Augustine Hanna, Vice-Chair Havasupai Tribal Council P.O. Box 10 Supai, AZ 86435 Phone: 928/448-2731 Fax: 928/448-2551	Roland Manakaja Natural Resources Dept, Havasupai Tribe P.O. Box 10 Supai, AZ 86435 Phone: 928/448-2731 Fax: 928/448-2551
Hopi Tribe	Wayne Taylor, Jr., Chair Caleb Johnson, Vice-Chair The Hopi Tribe P.O. Box 123 Kykotsmovi, AZ 86039 Phone: 928/734-2441 Fax: 928/734-6665	Leigh Kuwanwisiwma Hopi Cultural Preservation Office P.O. Box 123 Kykotsmovi, AZ 86039 Phone: 928/734-3612 Fax: 928/734-3629
Hualapai Tribe THPO	Louise Benson, Chairperson Carrie Imus, Vice-Chair Hualapai Tribal Council P.O. Box 179 Peach Springs, AZ 86434 Phone: 928/769-2216 Fax: 928/769-2343	Loretta Jackson, Tribal Historic Preservation Officer Department of Cultural Resources Hualapai Tribe P.O. Box 310 (878 W. Route 66) Peach Springs, AZ 86434 Phone: 928/769-2224 Fax: 928/769-2235
Kaibab-Paiute Tribe	Carmen Bradley, Chairperson Yolanda Hill, Vice-Chair Kaibab-Paiute Tribal Council HC 65, Box 2 Tribal Affairs Building Fredonia, AZ 86022 Phone: 928/643-7245 Fax: 928/643-7260	Ida Bullits, Acting Director, Cultural Resources Brenda Drye, Cultural Resources Assistant & NAGPRA Coordinator Kaibab-Paiute Tribe HC 65, Box 2 Tribal Affairs Building Fredonia, AZ 86022 Phone: 928/643-6014 Fax: 928/643-7260

Arizona State Historic Preservation Office (SHPO) - List Of Arizona Tribal Leadership And Cultural Resource Contacts (continued)

ARIZONA STATE HISTORIC PRESERVATION OFFICE (SHPO)
TRIBAL LEADERSHIP AND CULTURAL RESOURCE DIVISION CONTACT LIST
 (Updated 3/22/2004) Page 4 of 6

TRIBE	CHAIR/PRESIDENT/GOVERNOR	CULTURAL RESOURCE DIVISION CONTACTS
Mescalero Apache Tribe	Sara Misque, Chair Mescalero Apache Tribe P.O. Box 227 Mescalero, NM 88340 Phone: 505/671-4494 Fax: 505/671-9191	Historic Preservation Officer Mescalero Apache Tribal Historic Preservation Office P.O. Box 227 Mescalero, NM 88340 Phone: 505/464-9279 Fax: 505/671-4637
Navajo Nation THPO	Joe Shirley, Jr., President Frank Dayish, Jr. Vice President Navajo Nation P.O. Drawer 9000 Window Rock, AZ 86515 Phone: 928/871-6352 Fax: 928/871-4025	Ron Maldonado, Director Historic Preservation Department Navajo Nation Historic Preservation Office P.O. Box 4950 Window Rock, AZ 86515 Phone: 928/871-7199 Fax: 928/871-7643
Pascua Yaqui Tribe	Robert Valencia, Chair Francisco Munoz, Sr., Vice-Chair Pascua Yaqui Tribe 7474 S Camino de Oeste Tucson, AZ 85746 Phone: 520/883-5000 ext. 5016 Fax: 520/883-5014	Amalia A.M. Reyes, Language and Culture Preservation Specialist Pascua Yaqui Tribe 7474 S Camino de Oeste Tucson, AZ 85746 Phone: 520/879-5059 Fax: 520/883-5049 or 5014
Salt River Pima-Maricopa Indian Community (SRPMIC)	Joni Ramos, President Leonard Rivers, Vice-President Salt River Pima-Maricopa Indian Community 10,005 E Osborn Rd Scottsdale, AZ 85256 Phone: 480/850-8000 Fax: 480/850-8014	Gary Gilbert, Cultural Resources Specialist Cultural and Environmental Services Salt River Pima-Maricopa Indian Community 10,005 E Osborn Rd Scottsdale, AZ 85256 Phone: 480/850-8509 Fax: 480/850-7366
San Carlos Apache Tribe	Kathy Kitcheyan, Chairperson Robert Howard, Vice Chair San Carlos Apache Tribal Council P.O. Box 0 San Carlos, AZ 85550 Phone: 928/475-2361 Fax: 928/475-2567	Vernelda J. Grant, Tribal Archaeologist/ Director Historic Preservation & Archaeology Department San Carlos Apache Tribe P.O. Box 0 San Carlos, AZ 85550 Phone: 928/475-2326 Fax: 928/475-2484

Arizona State Historic Preservation Office (SHPO) - List Of Arizona Tribal Leadership And Cultural Resource Contacts (continued)

**ARIZONA STATE HISTORIC PRESERVATION OFFICE (SHPO)
TRIBAL LEADERSHIP AND CULTURAL RESOURCE DIVISION CONTACT LIST**
(Updated 3/22/2004) Page 5 of 6

TRIBE	CHAIR/PRESIDENT/GOVERNOR	CULTURAL RESOURCE DIVISION CONTACTS
San Juan Southern Paiute Council	Johnny Murphy Lehi, Sr., President Evelyn James, Vice-President San Juan Southern Paiute Council P.O. Box 1989 Tuba City, AZ 86045 Phone: 928/283-4587 Fax: 928/283-5761	Johnny Murphy Lehi, Sr., President San Juan Southern Paiute Council P.O. Box 1989 Tuba City, AZ 86045 Phone: 928/283-4587 Fax: 928/283-5761
Tohono O'odham Nation	Vivian Juan-Saunders, Chair Ned Norris, Jr., Vice-Chair Tohono O'odham Nation P.O. Box 837 Sells, AZ 85634 Phone: 520/383-2028 Fax: 520/383-3379	Peter Steere, Program Manager Cultural Affairs Department Tohono O'odham Nation P.O. Box 837 Sells, AZ 85634 Phone: 520/383-1517 or 1519 Fax: 520/383-3377 Email: psteeere@tona.net
Tonto Apache Tribe	Vivian L. Burdette, Chair Nathan Campbell, Vice-Chair Tonto Apache Tribe Tonto Apache Reservation #30 Payson, AZ 85541 Phone: 928/474-5000 Fax: 928/474-9125	Vincent Randall, Tribal Historian Ron Caron, Contracts Tonto Apache Tribe Tonto Apache Reservation #30 Payson, AZ 85541 Phone: 928/474-5000 Fax: 928/474-9125
White Mountain Apache Tribe THPO	Dallas Massey, Sr., Chair Frank Endfield, Vice-Chair White Mountain Apache Tribe P.O. Box 700 Whiteriver, AZ 85941 Phone: 928/338-4346 Fax: 928/338-1514	John Welch, Ph.D., Tribal Historic Preservation Officer White Mountain Apache Tribe Historic Preservation Office P.O. Box 507 Fort Apache, AZ 85926 Phone: 928/338-3033 Fax: 928/338-6055

Arizona State Historic Preservation Office (SHPO) - List Of Arizona Tribal Leadership And Cultural Resource Contacts (continued)

ARIZONA STATE HISTORIC PRESERVATION OFFICE (SHPO) TRIBAL LEADERSHIP AND CULTURAL RESOURCE DIVISION CONTACT LIST (Updated 3/22/2004) Page 6 of 6

TRIBE	CHAIR/PRESIDENT/GOVERNOR	CULTURAL RESOURCE DIVISION CONTACTS
Yavapai-Apache Nation	Jamie Fulmer, Chair Yavapai-Apache Nation P.O. Box 1188 (2400 W Datsi St) Camp Verde, AZ 86322 Phone: 928/567-3649 Fax: 928/567-3994	Don Decker, Director Katherine Marquez, Director Monica Van Ansdale Yavapai Cultural Program Tribal Building 2400 W Datsi St Camp Verde, AZ 86322 Phone: 928/567-7020 Fax: 928/567-1051 Phone: 928/634-0661
Yavapai-Prescott Indian Tribe	Ernest Jones, Sr., President Robert Ogo, Vice-President Yavapai-Prescott Indian Tribe 530 E Merritt St Prescott, AZ 86301 Phone: 928/445-8790 Fax: 928/778-9445	Nancy Hayden, Director Catherine Euler, Tribal Anthropologist Cultural Research Program Yavapai-Prescott Indian Tribe 530 E Merritt St Prescott, AZ 86301 Phone: 928/445-8790 Fax: 928/778-9445
Pueblo of Zuni THPO	Arlen P. Quetawki, Governor Carmelita Chavez, Lt. Governor Pueblo of Zuni P.O. Box 339 Zuni, NM 87327 Phone: 505/782-4481, ext. 111 Fax: 505/782-2700	Jonathon Damp, Tribal Historic Preservation Officer Zuni Cultural Resources Enterprise P.O. Box 339 Zuni, NM 87327 Phone: 505/782-4814 Fax: 505/782-2393

Notes:

THPO – Tribal Historic Preservation Office. These tribes have formally assumed the responsibilities of the SHPO for Section 106 consultations involving undertakings located within their external reservation boundaries under Section 101 (d) (2) of the National Historic Preservation Act. Agency Officials should consult with a THPO in lieu of the SHPO regarding undertakings occurring within, or affecting historic properties situated within, a THPO's reservation pursuant to 36 C.F.R. 800.2 (c) (2) (i) (A). For undertakings located on a non-THPO tribe's land, Agency Officials should consult with the SHPO and the designated tribal representative on an equal basis pursuant to 36 C.F.R. 800.2 (c) (2) (i) (B). For undertakings situated off tribal lands, Agency Officials should consult with any Indian tribe that attaches religious and cultural significance to historic properties that may be affected by the undertaking pursuant to 36 C.F.R. 800.2 (c) (2) (ii).

SHPO maintains and distributes this list as a courtesy to Agency and Tribal Officials, and it should be considered a starting point for consulting with Indian tribes. It is based on part from information posted at the Advisory Council on Historic Preservation's web site www.achp.gov/thpo.html and the Arizona Commission on Indian Affairs web site www.indianaffairs.state.az.us/tribes/tribes.html.

MHB

12.0 CHECKLISTS

E-CK.1 Checklist For Automatically Exempt Projects

ADOH Contract No. : _____ Activity No.: _____

ENVIRONMENTAL REVIEW RECORD Checklist For AUTOMATICALLY EXEMPT PROJECTS

Complete this form **only** if an entire is exempt, e.g. planning. In addition to the forms/documents listed, any additional ERR-related documents and correspondence should be included in this file.

Date Completed	Item
_____	Form E-1: Project Narrative
_____	Form E-2: Documentation of Exemption
_____	Form E-3.1 Level of Environmental Review
_____	Form E-13: Authority to Use Grant Funds

Note: The Recipient does not need to publish any notices or submit a Request for Release of Funds and Certification (E-12) to State of Arizona Department of Housing (ADOH).

E-CK.2 Checklist for Categorically Excluded Projects

ADOH Contract No.: _____ Activity No.: _____

ENVIRONMENTAL REVIEW RECORD Checklist for CATEGORICALLY EXCLUDED PROJECTS (includes those Downgraded to Exempt)

In addition to the forms/documents listed, any additional ERR-related documents and correspondence should be included in this file. If an item is not applicable, indicate with N/A.

Date Completed	Item	Date Completed	Item
_____	Map of Project Location	_____	Form E-9: Administrative Record (if applicable)
_____	Floodplain Map (if applicable)	_____	Form E-P.2 (Draft of NOI/RROF) or Form E-P.3 (Draft of NOI/RROF and Notice of Decision Regarding Project to be Located in Wetlands) and copy of ERR (including back up documentation) sent to ADOH for approval
_____	Form E-1: Project Narrative	_____	ADOH approval received
_____	Form E-3: Determination Form	_____	Publish E-P.2 or E-P.3 in local newspaper
_____	Form E-3.1 Level of Environmental Review	_____	Affidavit of Publication received
_____	Form E-4: Statutory Checklist	_____	Documentation that E-P.1 and E-P.2/3 mailed to federal, state or local agencies and organizations and individuals known to be interested in the project.
_____	Form E-8: Notice of Intent to Clear Land (if applicable)	_____	Form E-12 (Request for Release of Funds and Certification) <i>with original signature</i> , copies of E-P.2 or E-P.3 publication and affidavit mailed to ADOH.
_____	Form E-10: Letters mailed as required by Form E-4	_____	Form E-13: Authority to Use Grant Funds
_____	Responses received to letters mailed as required by Form E-4.	_____	Form E-14: Re-Evaluation of Assessment (if applicable)
(As required by A.R.S. §41-865, if village ruins or burial grounds are thought to exist at the project site or if such are identified by the SHPO/THPO, contact the Arizona State Museum, 520/621-4795.)			
_____	If project now downgraded to Exempt, complete Form E-2 and submit all to ADOH.		
_____	Form E-P.1: Floodplains/Wetlands Notice published (if applicable)		
_____	Affidavit of Publication received		

E-CK.3 Checklist for Environmental Assessment Projects

ADOH Contract No.: _____ Activity No.: _____

ENVIRONMENTAL REVIEW RECORD Checklist ENVIRONMENTAL ASSESSMENT PROJECTS

In addition to the forms/documents listed, any additional ERR-related documents and correspondence should be included in this file. If an item is not applicable, indicate with N/A.

Date Completed	Item	Date Completed	Item
_____	Map of Project Location	_____	Form E-11 (all pages)
_____	Floodplain Map	_____	Environmental Assessment Checklist (NOTE: if Recipient determines a Finding of Significant Impact (project may affect quality of human environment) CONTACT ADOH IMMEDIATELY FOR ENVIRONMENTAL IMPACT STUDY GUIDANCE).
_____	Form E-1: Project Narrative	_____	Draft of Form E-P.4 or E-P.5 (Concurrent Notice), and copy of ERR (including backup documentation sent to ADOH for approval).
_____	Form E-3: Determination Form	_____	ADOH approval received
_____	Form E-3.1 Level of Environmental Review	_____	Publish E-P.4 or E-P.5 in local newspaper
_____	Form E-4: Statutory Checklist	_____	Affidavit of Publication received
_____	Form E-8: Notice of Intent to Clear Land (if applicable)	_____	Form E-12 (RROF and Certification) <i>with original signature</i> , copies of E-P.4 or E-P.5 publication and affidavit mailed to ADOH.
_____	Form E-10: Letters mailed as required by Form E-4	_____	Form E-13: Authority to Use Grant Funds.
_____	Responses Received to letters mailed as required by Form E-4.	_____	Form E-14: Re-Evaluation of Assessment (if applicable)
(As required by A.R.S. §41-865, if village ruins or burial grounds are thought to exist at the project site or if such are identified by the SHPO/THPO, contact the Arizona State Museum, 520/621-4795.)		_____	Documentation that E-P.4/5 mailed to EPA and other federal, state or local agencies and organizations and individuals known to be interested in the project.
_____	Form E-P.1: Floodplains/Wetlands Notice published (if applicable)		
_____	Affidavit of Publication received		
_____	Form E-9: Administrative Record (if applicable)		

E-CK.4 Checklist for Housing Rehabilitation Projects

ADOH Contract No.: _____ Activity No.: _____

ENVIRONMENTAL REVIEW RECORD **Checklist for HOUSING REHABILITATION PROJECTS** (not located in a floodplain/wetlands)

In addition to the forms/documents listed, any additional ERR-related documents and correspondence should be included in this file. If an item is not applicable, indicate with N/A.

Date Completed	Item	Date Completed	Item
_____	Map of Project Location	_____	ADOH approval received
_____	Floodplain Map Note: If project is determined to be in a floodplain/wetlands, use the Checklist for Housing Rehabilitation Floodplain/Wetlands, Form E-CK.6	_____	Publish E-P.2 or E-P.3 in local newspaper
_____	Form E-1: Project Narrative	_____	Affidavit of Publication received
_____	Form E-3: Determination Form	_____	Documentation that E-P.1 and E-P.2/3 mailed to federal, state or local agencies and organizations and individuals known to be interested in the project.
_____	Form E-HR.1: Rehabilitation Environmental Review (if project is determined to be in floodplain/wetlands, use Checklist for Housing Rehabilitation - Floodplain/Wetlands, Form E-CK.6)	_____	Form E-12 (Request for Release of Funds and Certification) <i>with original signature</i> , copies of E-P.2 or E-P.3 publication and affidavit mailed to ADOH.
_____	Copies of all forms mailed to ADOH	_____	Form E-13: Authority to Use Grant Funds
_____	Form E-9: Administrative Record (if applicable)	_____	E-HR.2 Appendix A
_____	Form E-P.2 (Draft of NOI/RROF) or Form E-P.3 (Draft of NOI/RROF and Notice of Decision Regarding Project to be Located in Wetlands) and copy of ERR (including back up documentation) sent to ADOH for approval	_____	Form E-14: Re-Evaluation of Assessment (if applicable)
		_____	Copies of forms mailed to ADO

E-CK.5 Checklist for Housing Rehabilitation Projects

ADOH Contract No.: _____ Activity No.: _____

ENVIRONMENTAL REVIEW RECORD Checklist for HOUSING REHABILITATION PROJECTS Located in a Floodplain/Wetlands

In addition to the forms/documents listed, any additional ERR-related documents and correspondence should be included in this file. If an item is not applicable, indicate with N/A.

Date Completed	Item	Date Completed	Item
_____	Map of Project Location	_____	Copy of E-P.3 (NOI/RROF), affidavit of publication and E-12 (RROF & CERT) <i>with original signature</i> submitted to ADOH
_____	Floodplain Map		
_____	Form E-1: Project Narrative		
_____	Form E-HR.1: Housing Rehabilitation Environmental Review	_____	Form E-13: Authority to Use Grant Funds
_____	Form E-P.1: Floodplain/Wetlands Notice published	_____	Form E-HR.2 Appendix A
_____	Affidavit of Publication received	_____	Form E-14: Re-Evaluation of Assessment (if applicable)
_____	Form E-9: Administrative Record (Exec. Order 11988)		
_____	Form E-3: Determination Form		
_____	Copies of ERR (including back up documentation) and draft of Form E-P.3 mailed to ADOH Program for approval		
_____	Approval received for publication of E-P.3 (draft NOI/RROF)		
_____	Form E-P.3 (NOI/RROF) published		
_____	Affidavit of Publication received		

13.0 PUBLIC NOTICES

Publish for ALL projects located in floodplain/wetlands

PRIOR NOTICE

E-P.1 - Notice Of Proposed Project To Be Located In (Or That Will Impact On) A Floodplain Or Wetlands

Date of Publication: _____

The **[NAME OF RECIPIENT]** is proposing to conduct a **[NAME OF PROJECT I.E. NEW CONSTRUCTION OF HOUSING, SEWER SYSTEM IMPROVEMENT, SENIOR CITIZEN CENTER]** to be funded with **[CDBG, HOME, SHP]** funds received through the Arizona Department of Housing (ADOH).

The **[RESPONSIBLE ENTITY]** has determined that this proposed project lies in a floodplain/wetlands **[OR WILL IMPACT ON A FLOODPLAIN OR WETLANDS]** and thus is publishing this notice in compliance with Executive Orders 11988 or 11990 and the Floodplain Management Wetlands Protection Guidelines adopted by the Water Resources Council.

This proposed project is located at **[DESCRIBE WITH ADDRESS OR BY IDENTIFYING STREETS, SIGNIFICANT BUILDINGS, NATURAL FEATURES AND OTHERS]**, will consist of **[E.G., TYPE OF CONSTRUCTION, LENGTH OF PIPE, ETC.]**, and will involve **[NUMBER OF]** _____ acres of floodplain.

The **[RESPONSIBLE ENTITY]** has additional information available on this project, which can be reviewed at **[RESPONSIBLE ENTITY ADDRESS AND ROOM NUMBER]** which is handicapped accessible or persons with special accessibility needs may contact **[name]**. Interested persons can also call **[IDENTIFY STAFF PERSON]** at **[TELEPHONE NUMBER AND TDD]** for additional information about this proposed project. The **[RESPONSIBLE ENTITY]** is now considering potential alternative sites, potential flood impact on the proposed project, and potential mitigation to minimize flood hazard or wetlands impact.

Written comments on this proposed project are invited and should be submitted by **[DATE -- MINIMUM OF 15 DAYS FROM DATE OF PUBLICATION]** to **[location]**. All such comments will be taken into account by the **[RESPONSIBLE ENTITY]** prior to its decision on the proposed project.

Name and Address of Local Government or ADOH Certifying Officer:

Signature of Certifying Officer _____

E-P.2 - Notice Of Intent To Request Release Of Funds

(DATE OF NOTICE)

(NAME OF RESPONSIBLE ENTITY [RE])

(ADDRESS)

(CITY, STATE, ZIP CODE)

(TELEPHONE NUMBER OF RE PREPARER AGENCY)

On or about (AT LEAST ONE DAY AFTER THE END OF THE COMMENT PERIOD) **the** (NAME OF RE) **will submit a request to the** (HUD/STATE ADMINISTERING AGENCY) **for the release of** (NAME OF GRANT PROGRAM) **funds under** [Title/Section ()] **of the** (NAME OF THE ACT) **of** (DATE OF ACT), **as amended, to undertake a project known as** (PROJECT TITLE), **for the purpose of** (NATURE/SCOPE OF PROJECT, AND PROJECT ADDRESS/LOCATION IF APPLICABLE).

The activities proposed are Categorically Excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act requirements. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at (NAME AND ADDRESS OF RE OFFICE WHERE ERR CAN BE EXAMINED AND NAME AND ADDRESS OF OTHER LOCATIONS WHERE THE RECORD IS AVAILABLE FOR REVIEW) **and may be examined or copied weekdays**
() A.M. to () P.M.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the (RE DESIGNATED OFFICE RESPONSIBLE FOR RECEIVING AND RESPONDING TO COMMENTS). **All comments received by** (IF NOTICE IS PUBLISHED: NOTICE DATE PLUS SEVEN DAYS--IF NOTICE IS POSTED: POSTING DATE PLUS TEN DAYS) **will be considered by the** (NAME OF RE) **prior to authorizing submission of a request for release of funds.**

RELEASE OF FUNDS

The (NAME OF RE) **certifies to** (HUD/STATE) **that** (NAME OF CERTIFYING OFFICER) **in** (HIS/HER) **capacity as** (OFFICIAL TITLE) **consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. (HUD'S/STATE'S) approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows the** (NAME OF RECIPIENT) **to use Program funds.**

OBJECTIONS TO RELEASE OF FUNDS

(HUD/STATE) will consider objections to its release of funds and the (RE'S NAME) certification received by (ANTICIPATED DATE OF HUD/STATE RECEIPT OF RROF/C PLUS FIFTEEN DAYS) or for a period of fifteen days following its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the (NAME OF RE); (b) the (RE) has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by (HUD/STATE); or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to (HUD/STATE GRANT ADMINISTRATION OFFICE) at (ADDRESS OF THAT OFFICE). Potential objectors should contact (HUD/STATE) to verify the actual last day of the objection period.

(NAME AND TITLE OF RE CERTIFYING OFFICER)

Signature of Certifying Officer

E-P.3 - Notice Of Intent To Request Release Of Funds And Notice Of Decision Regarding Project To Be Located In (Or That Will Impact On) A Floodplain Or Wetlands

(DATE OF NOTICE)

(NAME OF RESPONSIBLE ENTITY [RE])

(ADDRESS)

(CITY, STATE, ZIP CODE)

(TELEPHONE NUMBER OF RE PREPARER AGENCY)

On or about (AT LEAST ONE DAY AFTER THE END OF THE COMMENT PERIOD) **the** (NAME OF RE) **will submit a request to the** (HUD/STATE ADMINISTERING AGENCY) **for the release of** (NAME OF GRANT PROGRAM) **funds under** [Title/Section ()] **of the** (NAME OF THE ACT) **of** (DATE OF ACT), **as amended, to undertake a project known as** (PROJECT TITLE), **for the purpose of** (NATURE/SCOPE OF PROJECT, AND PROJECT ADDRESS/LOCATION IF APPLICABLE).

Further, in order to comply with Executive Orders 11988 or 11990 and the Water Resources Council's Floodplain Management/Wetlands Protection Guidelines, the (NAME OF RE) **hereby states that this** [name of project] **lies within an identified floodplain or wetlands (or will impact on a floodplain or wetlands). However, the** (NAME OF RE) **reached a decision that this is the only practicable alternative for this project.**

Its decision is based on an evaluation of the following alternatives [list all]. **The** [name of applicant] **will however, ensure that this project will conform to all state and/or local floodplain or wetlands protection standards, and will take the following actions to mitigate the flood hazard/impact on wetlands and to restore and preserve natural and beneficial values** (DESCRIBE SUCH ACTIONS OR INDICATE THAT NO SUCH ACTIONS CAN BE TAKEN).

The activities proposed are Categorical Excluded under HUD Regulations at 24 CFR Part 58 from National Environmental Policy Act requirements. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at (NAME AND ADDRESS OF RE OFFICE WHERE ERR CAN BE EXAMINED AND NAME AND ADDRESS OF OTHER LOCATIONS WHERE THE RECORD IS AVAILABLE FOR REVIEW) **and may be examined or copied weekdays**
() A.M. to () P.M.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the (RE DESIGNATED OFFICE RESPONSIBLE FOR RECEIVING AND RESPONDING TO COMMENTS). All comments received by (IF NOTICE IS PUBLISHED: NOTICE DATE PLUS SEVEN DAYS--IF NOTICE IS POSTED: POSTING DATE PLUS TEN DAYS) will be considered by the (NAME OF RE) prior to authorizing submission of a request for release of funds.

RELEASE OF FUNDS

The (NAME OF RE) certifies to (HUD/STATE) that (NAME OF CERTIFYING OFFICER) in (HIS/HER) capacity as (OFFICIAL TITLE) consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. (HUD'S/STATE'S) approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows the (NAME OF RECIPIENT) to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

(HUD/STATE) will consider objections to its release of funds and the (RE'S NAME) certification received by (ANTICIPATED DATE OF HUD/STATE RECEIPT OF RROF/C PLUS FIFTEEN DAYS) or for a period of fifteen days following its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the (NAME OF RE); (b) the (RE) has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by (HUD/STATE); or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to (HUD/STATE GRANT ADMINISTRATION OFFICE) at (ADDRESS OF THAT OFFICE). Potential objectors should contact (HUD/STATE) to verify the actual last day of the objection period.

(NAME AND TITLE OF RE CERTIFYING OFFICER)

Signature of Certifying Officer

Publication for EA Projects (No floodplain/wetlands)

E-P.4 - Combined Notice Of Finding of No Significant Impact And Intent To Request Release of Funds

(DATE OF NOTICE)

(NAME OF RESPONSIBLE ENTITY [RE])

(ADDRESS)

(CITY, STATE, ZIP CODE)

(TELEPHONE NUMBER OF RE PREPARER AGENCY)

This Notice shall satisfy the above-cited two separate but related procedural notification requirements.

REQUEST FOR RELEASE OF FUNDS

On or about (AT LEAST ONE DAY AFTER THE END OF THE COMMENT PERIOD) the (NAME OF RE) submit a request to the (HUD/STATE ADMINISTERING AGENCY) for the release of (NAME OF GRANT PROGRAM) funds under [Title/Section ()] of the (NAME OF THE ACT) of (DATE OF ACT), as amended, to undertake a project known as (PROJECT TITLE), for the purpose of (NATURE/SCOPE OF PROJECT, AND PROJECT ADDRESS/LOCATION IF APPLICABLE).

FINDING OF NO SIGNIFICANT IMPACT

**The (NAME OF RE) has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at (NAME AND ADDRESS OF RE OFFICE WHERE ERR CAN BE EXAMINED AND NAME AND ADDRESS OF OTHER LOCATIONS WHERE THE RECORD IS AVAILABLE FOR REVIEW) and may be examined or copied weekdays
() A.M. to () P.M.**

PUBLIC COMMENTS

Any individual, group, or agency disagreeing with this determination or wishing to comment on the project may submit written comments to the (RE DESIGNATED OFFICE RESPONSIBLE FOR RECEIVING AND RESPONDING TO COMMENTS). All comments received by (IF NOTICE PUBLISHED: NOTICE DATE PLUS FIFTEEN DAYS—IF NOTICE POSTED: POSTING DATE PLUS EIGHTEEN DAYS) will be considered by the (NAME OF RE) prior to authorizing submission of a request for release of funds. Commentors should specify which part of this Notice they are addressing.

RELEASE OF FUNDS

The (NAME OF RE) certifies to (HUD/STATE) that (NAME OF CERTIFYING OFFICER) in (HIS/HER) capacity as (OFFICIAL TITLE) consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. (HUD'S/STATE'S) approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows the (NAME OF RECIPIENT) to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

(HUD/STATE) will consider objections to its release of funds and the (RE's NAME) certification received by (ANTICIPATED DATE OF HUD/STATE RECEIPT OF RROF/C PLUS FIFTEEN DAYS) or a period of fifteen days from its receipt of the request (whichever is later) only if they are on one of the following bases: (a)

the certification was not executed by the Certifying Officer or other officer of the (NAME OF RE) approved by (HUD/STATE); (b) the (RE) has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by (HUD/STATE); or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to (HUD/STATE GRANT ADMINISTRATION OFFICE) at (ADDRESS OF THAT OFFICE). Potential objectors should contact (HUD/STATE) to verify the actual last day of the objection period.

(NAME AND TITLE OF RE CERTIFYING OFFICER)

Signature of Certifying Officer

Publication for EA Projects (floodplain/wetlands)

E-P.5 - Combined Notice Of Finding Of No Significant Impact And Intent To Request Release Of Funds

**NOTICE OF DECISION REGARDING PROJECT TO BE LOCATED IN
(OR THAT WILL IMPACT ON) A FLOODPLAIN OR WETLANDS**

(DATE OF NOTICE)

(NAME OF RESPONSIBLE ENTITY [RE])

(ADDRESS)

(CITY, STATE, ZIP CODE)

(TELEPHONE NUMBER OF RE PREPARER AGENCY)

This Notice shall satisfy the above-cited two separate but related procedural notification requirements.

REQUEST FOR RELEASE OF FUNDS

On or about (AT LEAST ONE DAY AFTER THE END OF THE COMMENT PERIOD) the (NAME OF RE) submit a request to the (HUD/STATE ADMINISTERING AGENCY) for the release of (NAME OF GRANT PROGRAM) funds under [Title/Section ()] of the (NAME OF THE ACT) of (DATE OF ACT), as amended, to undertake a project known as (PROJECT TITLE), for the purpose of (NATURE/SCOPE OF PROJECT, AND PROJECT ADDRESS/LOCATION IF APPLICABLE).

Further, in order to comply with Executive Orders 11988 or 11990 and the Water Resources Council's Floodplain Management/Wetlands Protection Guidelines, the (NAME OF RE) hereby states that this [name of project] lies within an identified floodplain or wetlands (or will impact on a floodplain or wetlands). However, the (NAME OF RE) reached a decision that this is the only practicable alternative for this project.

Its decision is based on an evaluation of the following alternatives [list all]. The [name of applicant] will however, ensure that this project will conform to all state and/or local floodplain or wetlands protection standards, and will take the following actions to mitigate the flood hazard/impact on wetlands and to restore and preserve natural and beneficial values (DESCRIBE SUCH ACTIONS OR INDICATE THAT NO SUCH ACTIONS CAN BE TAKEN).

FINDING OF NO SIGNIFICANT IMPACT

**The (NAME OF RE) has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at (NAME AND ADDRESS OF RE OFFICE WHERE ERR CAN BE EXAMINED AND NAME AND ADDRESS OF OTHER LOCATIONS WHERE THE RECORD IS AVAILABLE FOR REVIEW) and may be examined or copied weekdays
() A.M. to () P.M.**

PUBLIC COMMENTS

Any individual, group, or agency disagreeing with this determination or wishing to comment on the project may submit written comments to the (RE DESIGNATED OFFICE RESPONSIBLE FOR RECEIVING AND RESPONDING TO COMMENTS). All comments received by (IF NOTICE PUBLISHED: NOTICE DATE PLUS FIFTEEN DAYS--IF NOTICE POSTED: POSTING DATE PLUS EIGHTEEN DAYS) will be considered by the (NAME OF RE) prior to authorizing submission of a request for release of funds. Commentors should specify which part of this Notice they are addressing.

RELEASE OF FUNDS

The (NAME OF RE) certifies to (HUD/STATE) that (NAME OF CERTIFYING OFFICER) in (HIS/HER) capacity as (OFFICIAL TITLE) consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. (HUD'S/STATE'S) approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows the (NAME OF RECIPIENT) to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

(HUD/STATE) will consider objections to its release of funds and the (RE's NAME) certification received by (ANTICIPATED DATE OF HUD/STATE RECEIPT OF RROF/C PLUS FIFTEEN DAYS) or a period of fifteen days from its receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer or other officer of the (NAME OF RE) approved by (HUD/STATE); (b) the (RE) has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by (HUD/STATE); or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to (HUD/STATE GRANT ADMINISTRATION OFFICE) at (ADDRESS OF THAT OFFICE). Potential objectors should contact (HUD/STATE) to verify the actual last day of the objection period.

(NAME AND TITLE OF RE CERTIFYING OFFICER)

Signature of Certifying Officer

14.0 FORMS

E-1 Project Narrative

Recipient: _____

ADOH Contract No.: _____

ADOH ENVIRONMENTAL REVIEW RECORD PROJECT NARRATIVE

1. Project Title: _____

2. Project Description: (attach additional pages as necessary)

Complete item a and b if the information is not included in the attachment.

a. Geographic Location (street names, compass direction, relation to town limit):

b. Size and/or Area (sq. ft. of building, size and length of pipe, no. of units):

c. Existing Environmental Conditions (no sewer system, river contamination, unpaved streets, residential area, fully developed):

d. Purpose (to improve traffic and driving conditions by widening roads):

e. Cost:

Federal Funds: Source: _____ \$ _____

Leverage/Other Source: _____ \$ _____

Leverage/Other Source: _____ \$ _____

TOTAL \$ _____

4. Map attached with project site clearly marked: Yes _____

5. Prepared By:

Typed Name

Signature

Title

Date

E-2 Documentation of Exemption

Recipient: _____

ADOH Contract No.: _____

ENVIRONMENTAL REVIEW RECORD
DOCUMENTATION OF EXEMPTION

1. Description of Activity(ies):

2. These activities are **exempt** pursuant to 24 CFR Part 58.

Form Prepared By: _____
Signature Date

Typed Name

Certifying Officer: _____
Signature Date

Typed Name and Title

A copy of this document should be submitted to ADOH if the **entire** activity is Exempt (e.g. planning only) and excluding Administration. The original should be held in the Recipient's ERR file.

ADOH ENVIRONMENTAL REVIEW RECORD***DETERMINATION FORM***

Determine the type of environmental review necessary by checking the box that best describes the activity. **All activities must complete a Level of Review Determination (Form E-3.1) in addition to this Form, except Owner-Occupied Rehabilitation using the RER.**

A. EXEMPT ACTIVITIES

1. The following are **EXEMPT** activities or components of an activity (§58.34). Check the appropriate box and complete the required documentation for Exempt activities.
 - ☐ Environmental or other studies, resource identification, development of plans and strategies
 - ☐ Information or financial services
 - ☐ Administration
 - ☐ Public services that will not have a physical impact or result in any physical changes. Examples: Programs for employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation, welfare or recreational needs
 - ☐ Inspections and testing of properties for hazards or defects
 - ☐ Purchase of insurance
 - ☐ Purchase of tools
 - ☐ Professional services such as engineering, design, architectural, planning, appraisal, rehab services, etc.
 - ☐ Technical assistance and training
 - ☐ Interim assistance
2. **The following activities are Categorically Excluded** (not subject to §58.5) and therefore considered EXEMPT. Check the appropriate box and complete the required documentation for Exempt activities.
 - ☐ Supportive services such as housing services, permanent housing placement, nutritional services, short term payments for rent/mortgage/utility costs, and assistance in gaining access to government benefits and services.
 - ☐ Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs.
 - ☐ Equipment necessary to the operation of a service such as a fire truck, ambulance, transportation service vehicles, etc.

2. EXEMPT Activities (cont'd)

- ☐ Economic development activities such as equipment purchase, operating expenses and similar costs not associated with construction or expansion of existing operations.
- ☐ Activities to assist homeownership of existing or new dwelling units not assisted with federal funds including closing costs and down payment assistance, interest buy downs and similar activities that result in the transfer of title to a property. **If the home to be acquired is located in a floodplain Flood Insurance under the National Flood Insurance Program must be obtained and maintained for the economic life of the project, in the amount of the total project and a copy of the flood insurance policy declaration must be kept in the ERR. If the home to be acquired is located in an airport clear zone a Disclosure Statement must be provided to the buyer and a copy of the signed disclosure statement must be maintained in the ERR.**

B. CATEGORICALLY EXCLUDED activities. Check the appropriate box and complete the required documentation for CE activities.

- ☐ An activity from Section A.2 that is in or will impact on a floodplain or airport clear zone.
- ☐ Acquisition, repair, improvement, reconstruction or rehabilitation of public facilities and improvements (*does not include buildings*) when the facilities/improvements are in place and will be retained in the same use *without change in size or capacity of more than 20%*. Examples: Replacement of water or sewer lines, sidewalk/curb reconstruction, street repaving.
- ☐ Architectural barrier removal
- ☐ Rehabilitation of residential buildings, only IF:
no change in the land use, the density is not increased beyond 4 units and the footprint of the building is not increased in a floodplain
- ☐ Non residential rehabilitation (commercial, industrial, public buildings) only IF:
No change in land use (from commercial to industrial, etc.); and
Facility/improvement in place and change in size or capacity will not exceed 20%.
- ☐ Acquisition or disposition of an existing 1-4 family dwelling (includes reconstruction)
- ☐ Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.

C. Those activities not described in Section A or B require an **ENVIRONMENTAL ASSESSMENT**. Check the box below and complete the required documentation for EA activities.

- ☐ This project is Exempt
- ☐ This project is Categorically Excluded
- ☐ This project requires an Environmental Assessment

Certifying Officer:

Signature

Date

Typed Name and Title

E-3.1 Level Of Environmental Review Determination (2004)

Project Name / Description: _____

Level of Environmental Review:

(Exempt per 24 CFR 58.34, Categorically excluded not subject to statutes per § 58.35(b), Categorically excluded subject to statutes per § 58.35(a), Environmental Assessment per § 58.36, or EIS per 40 CFR 1500)

STATUTES AND REGULATIONS LISTED AT 24 CFR 58.6

FLOOD INSURANCE / FLOOD DISASTER PROTECTION ACT

1. Does the project involve the acquisition, construction or rehabilitation of structures, buildings or mobile homes?
() No. Flood insurance is not required. The review of this factor is completed.
() Yes; continue.
2. Is the structure or part of the structure located in a FEMA designated Special Flood Hazard Area?
() No. Source Document (FEMA/FIRM floodplain zone designation, panel number, date): _____ (Factor review completed).
() Yes. Source Document (FEMA/FIRM floodplain zone designation, panel number, date): _____ (Continue review).
3. Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?
() Yes. Flood Insurance under the National Flood Insurance Program must be obtained and maintained for the economic life of the project, in the amount of the total project cost. A copy of the flood insurance policy declaration must be kept in the Environmental Review Record.
() No (**Federal assistance may not be used in the Special Flood Hazards Area**).

COASTAL BARRIERS RESOURCES ACT

1. Is the project located in a coastal barrier resource area? (See www.fema.gov/nfip/cobra.shtm).
() No. Cite Source Documentation: _____
(This element is completed).
() Yes. **Federal assistance may not be used in such an area.**

AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES DISCLOSURES

1. Does the project involve the sale or acquisition of existing property within a Civil Airport's Runway Clear Zone, Approach Protection Zone or a Military Installation's Clear Zone?
() No. Cite SD, page: _____
2. Project complies with 24 CFR 51.303(a)(3).
() Yes. **Disclosure statement must be provided** to buyer and a copy of the signed disclosure statement must be maintained in this Environmental Review Record.

Preparer Signature / Name /Date

Responsible Entity Official Signature / Title/ Date

E-4 Statutory Checklist

If all lines below are checked "A" and the project has been determined to be CE, the activity may be considered down-graded exempt. Complete Form E-2 and no further ERR is necessary.

If any of the lines below are checked "B" then proceed with the required consultations.

Recipient: _____

ADOH Contract No.: _____

E-4 - STATUTORY CHECKLIST

This form must be completed for all Categorical Exclusion and all Environmental Assessment Projects.

This project has been determined to be: ☐ CATEGORICAL EXCLUSION (CE)
☐ ENVIRONMENTAL ASSESSMENT (EA)

Refer to instructions to complete this form.

I. Environmental Area/Statutes	II. A.	B.	III. Findings and Supporting Documentation MUST BE CITED (letters, phone calls, on-site visit dates, etc.)
1. Historic Preservation (includes archeology)			
2. Relevant Tribe(s)			
3. Floodplain Management			
4. Wetlands Protection			
5. Sole Source Aquifers/ Safe Drinking Water			
6. Endangered Species & Protected Plants			
7. Air Quality Protection			
8. Wild and Scenic Rivers			
9. Farm Land Protection			
10. HUD Environmental Std			
a. Noise Abatement & Control			
b. Toxic Chemical & Radioactive Materials			
c. Explosive & Flammable Operations			
d. Airport Clear Zones & Accident Potential Zones			
11. Environmental Justice			

Form Prepared By:

Name

Signature

Title

Date

Form E-4, Statutory Checklist Instructions

I. Environmental Area/Statute. This section lists each statute, Executive Order or regulation that may apply to the project. These are collectively referred to as the "statutes" for ease of reference.

II. Determination: Columns A or B. For each of the statutes it must be determined if the project will result in a violation of the statute or require a special permit or license. **Check only one - A or B.** **Column A** should be checked if no violation will result and no permit or license is required. **Column B** should be checked if the project will result in a violation of the statute or will require a special permit or license. If Column B is checked, the Recipient will have to identify and complete additional steps or procedures before it can submit a Request for Release of Funds ADOH or HUD. If all sections are checked "A" and if the project has been determined to be a Categorical Exclusion, the activity(ies) can be considered EXEMPT. Complete Form E-2 and no further environmental review is necessary. If any of the sections are checked "B," proceed with the required consultations.

III. Supporting Documentation. Identify supporting documentation for each statute, in the form of: letters sent to agencies/organizations and their replies; phone calls (include date, person contacted, person placing the phone call, questions asked, responses); maps or plans (and their location if they are not in the ERR); dates of on-site visits, persons conducting such visits and their expertise to make the determination. In most instances this column will reference attachments to the E-4 form. (See Section 2.3 for more information about source documentation.)

1. Historic and Archeological Properties

(See also Section 9 which describes the Advisory Council Procedures on Historic Preservation, also known as the Section 106 process.)

Actions: a) define the Area of Potential Effect (APE); b) solicit input from those with local historic interests (if applicable) AND from the State Historic Preservation Officer (SHPO); c) conduct an on-site review of the APE; d) document at a minimum whether the APE is associated with significant historical events or people; if the APE embodies distinctive characteristics of a type, period or method of construction; represents the work of a master craftsman; possesses high artistic value or is architecturally distinctive; is likely to yield information important in prehistory or history; is part of a district that possesses distinctive characteristics, integrity of location, design, setting, materials, workmanship, feeling or association. Consultation with the SHPO may extend the time necessary for completing the ERR. The SHPO/THPO must be allowed 35 days from receipt of the documents to comment on the proposed activity or 45 days if the project is determined eligible for the NR. SHPO documents should be sent certified mail with return receipt to document the SHPO receipt date. A.R.S. §41-865 requires that Recipients contact The Arizona State Museum if village ruins or burial grounds are thought to exist at the project site or if such are identified by the SHPO/THPO. If you have local historic preservation committee, it is recommended that they be given a courtesy consultation/notification.

Column A: The Recipient and SHPO agree that there are no National Register (NR) or eligible properties within the APE that may be affected by the project, or the Recipient and SHPO agree that the project will have no effect on NR or NR-eligible properties within the APE.

Column B: The project will have an effect on NR or NR-eligible properties within the APE. See Section 9 which describes the additional actions to be taken including contacting the National Advisory Council on Historic Preservation, and allowing 45 days for a response.

2. Relevant Tribes

Actions: a) define the Area of Potential Effect (APE); b) review tribal claims maps (Section 11) to ascertain which tribes claim affinity to the project area to identify other tribes with reservations in the area; c) contact the Tribal Chairperson and the Cultural Resource Division (Section 11) for an evaluation to include traditional religious and cultural importance. (Use the standard letter format (E-10) for tribal notification and allow 30 days from receipt of document for response, 45 days if NR.

NOTE: A.R.S. §41-865 requires that Recipients contact The Arizona State Museum if village ruins or burial grounds are thought to exist at the project site or if such are identified by the SHPO/THPO.

Column A: The Recipient and tribe(s) agree that there are no National Register (NR) or eligible properties within the APE that may be affected by the project, or the Recipient and tribe(s) agree that the project will have no effect on NR or NR-eligible properties within the APE.

Column B: The project will have an effect on NR or NR-eligible properties within the APE. See Section 9 which describes the additional actions to be taken including contacting the National Advisory Council on Historic Preservation, and allowing 45 days for a response.

3. Floodplain Management

Actions: Review FEMA Flood Hazard Boundary Map or Flood Insurance Rate Map. Cite map number in Section III or include a copy of the map. Contact Arizona Department of Water Resources and the City/Town/County Engineer or local Flood Control Agency. (See Section 8 for more information.)

Column A: The project is not within the 100-year flood hazard identified in FEMA maps (zones A or V) or similar information provided by other entities. If the project involves a critical action such as a fire station, hospital or elderly housing project, the 500-year flood hazard (zone B) applies.

Column B: The project does lie within 500-year floodplain. Publish the Prior Notice (Form E-P.1) if there are no practicable alternatives and/or will impact on a 100 or 500-year floodplain. Proceed with the steps outlined in Section 8. Projects may be approved if there are no practicable alternatives outside the floodplain area.

NOTE: Complete Form E-9 and retain in the Environmental Review Record (ERR).

4. Wetlands Protection

Actions: Contact the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers. If cut and fill will occur in a waterway, a Corps of Engineers 404 permit may be necessary, particularly if such work may affect wetlands. If the project takes place in or on any existing buildings, do not contact the U.S. Army Corps of Engineers

Column A: The project is not within nor will it affect a wetland.

Column B: The project lies within or will affect a wetland. Proceed with the steps outlined in Section 8. and publish the Prior Notice (Form E-P.1). Projects may be approved if there are no practicable alternatives outside of the wetlands area.

NOTE: If clearing of undeveloped land, a change of landscape features, or work on structures in or affecting the waters of the U.S. is proposed, contact the U.S. Army Corps of Engineers with a letter describing the activity so it may determine if a Clean Water Act or River and Harbor Act permit is required. Waters of the United States include wetlands, lakes, reservoirs, rivers, streams, dry stream beds, arroyos, washes, and other ephemeral watercourses.. Waters of the United States include wetlands, lakes, reservoirs, rivers, streams, dry stream beds, arroyos, washes, and other ephemeral watercourses.

5. Sole Source Aquifers and Safe Drinking Water

Actions: Contact the Arizona Department of Environmental Quality, Office of Water Quality and the County Health Department.

Column A: The source of water for this community is not an EPA designated sole source aquifer and the ADEQ and the County Health Department or other jurisdictional authority has determined that it meets state drinking water standards OR the community is served by or lies within an EPA designated sole source aquifer but the appropriate agencies have determined that the project will not contaminate it.

Column B: The project lies within a community that is served by an EPA designated sole source aquifer and does not meet state drinking water standards or the project may contaminate a sole source aquifer. Document implementation of actions recommended by ADEQ, EPA, or other appropriate authority to resolve the situation.

6. Endangered Species

Actions: Contact the Arizona Fish and Game and U.S. Fish and Wildlife Service, a biologist at a local college, university or college or conduct an on-site review to verify that the location is fully developed.

Column A: The project will not affect any endangered species of plants or animals nor any critical habitat.

Column B: The project may or will affect an endangered species or a critical habitat. Document implementation of actions recommended by the Fish and Game/Wildlife Service or other authorities consulted, or reasons for non-implementation.

7. Air Quality Protection

Actions: Contact the Arizona Department of Environmental Quality, Office of Air Quality.

Column A: The project is within an attainment area or is within a non-attainment area for which the EPA has approved the State Implementation Plan (SIP). The project will not induce air pollutant concentrations; or if it is a housing project, it will not be impacted by an aggregate of air pollutant sources such as transit terminals, freeways and highways, large-scale parking lots and similar line and point sources.

Column B: The project does lie within a non-attainment area for which there is no EPA approved SIP. Document implementation of DEQ recommendations. If the issues are transportation related, priority must be given to implementing those portions of the SIP to achieve and maintain national primary air quality standards.

8. Wild and Scenic Rivers

NOTE: The only river outside of Pima and Maricopa County that has been so designated is the Verde River from Camp Verde to about 2 miles south of Table Mountain. However, it is recommended that consultation take place regarding any project that will take place in close proximity to any free-flowing river.

Actions: If applicable, contact the Prescott and Tonto National Forests or the National Park Service, Western Regional Office. If not applicable, document to the file based on a map indicating the location of the project in relation to any free-flowing rivers.

Column A: The project will not have an effect on a river which is a component of the National Wild and Scenic Rivers system or is under consideration for inclusion in the system.

Column B: The project may have an effect on such a river. Document implementation of National Forest Service recommendations.

9. Farm Land Protection

Actions: Consult a map and/or the Soil Conservation Service.

NOTE: If the land where the project is located or on which it will impact is currently zoned other than agricultural, this law does NOT apply.

Column A: This project will not take place on land that is currently unzoned or agriculturally zoned, and will not directly or indirectly encourage conversion of farmland to nonagricultural purposes, or the project will take place on prime farmland but is located in an area committed to urban uses.

Column B: The project may impact on farmland. Document implementation of the Soil Conservation Service recommendations.

10. HUD Environmental Standards

a. Noise Abatement and Control

Actions: Contact the project engineer or other persons knowledgeable about the potential noise impacts of the proposed project. Review a map to determine the location of major roads within 1,000 feet of the project, railroad uses within 3,000 feet and noise contours for airports. Contact the planning director. Also examine large point sources such as parking lots, foundries, metal rendering plants, etc.

Column A: The project will not be affected by or induce noise impacts on residential land uses in excess of HUD's exterior standard of 65 DNL or interior level standards of 45 DNL after construction, based on HUD Noise Assessment Guidelines or other acoustical data.

Column B: The project may create or be impacted by noise levels as stated by HUD. Document mitigating actions recommended by project engineer or other such person.

b. Hazardous Operations Explosive or Flammable in Nature

Actions: Contact the Public Safety Officer, Fire Chief or Planning Director and conduct an on-site inspection.

Column A: The project is not in the vicinity of any hazardous operation involving explosive or flammable fuels or chemicals which exceed the following standards: explosion, 0.5 psi overpressure; fire to buildings, 10,000 BTU/ft (2) hr; fire to people in unprotected areas (i.e., outdoors), 450 BTU/ft (2) hr.

Column B: The project is in the vicinity of hazardous operations. Establish acceptable separation distance standards or document implementation of other mitigating measures as recommended by persons knowledgeable about hazardous operations such as the Public Safety Officer or Fire Chief.

c. Toxic Chemicals and Radioactive Materials

Actions: Contact the Public Safety Officer, Fire Chief or Planning Director and conduct an on-site visit.

Column A: The project is not exposed to toxic chemicals or radioactive materials.

Column B: The project is or may be exposed to toxic chemicals or radioactive materials. Gather all pertinent information regarding these materials (type, amount, wind direction, relationship to waterways and drainage, distance from the project site, etc.). Contact the Department of Emergency Services, a university or other agency with knowledge about such materials. Document a determination as to whether a serious health hazard exists. Document implementation of recommendations.

NOTE: Federal funds should NOT be used on activities supporting new development for habitation when the area may be affected by toxic chemicals or radioactive materials.

d. Airport Clear Zones and Accident Potential Zones

Actions: Contact the closest airport to determine whether the project is considered to lie within a designated civilian airport Runway Clear Zone (RCZ), a military airfield Clear Zone (CZ) or an Accident Potential Zone (APZ).

Column A: The project does not lie within a designated civilian airport RCZ, military CZ or an APZ.

Column B: The project may or does lie within a designated RCZ, CZ or APZ. Obtain a written assurance from the Certifying Officer and the airport operator that the project site is acceptable and there are no airport plans to purchase the project site; or obtain a written assurance from the site purchaser that s/he is aware that the property may be acquired by the airport at a later date.

NOTE: It is HUD and ADOH policy NOT to provide federal funds in RCZ, CZ or APZ areas.

11. Environmental Justice

Actions: The purpose of Executive Order 12898 is to ensure that there is no disproportionately adverse environmental impact (mainly toxic dumps and nuclear waste facilities) on low income and minority areas due to federal projects. Since there are no agencies or experts to contact to make such a determination, it is presumed that if there is no negative impact in the other areas listed, then there is no impact on Environmental Justice.

Column A: No negative impact indicated in any of the other Environmental Areas listed.

Column B: Negative impact indicated in other Environmental Areas or the project is a toxic dump or nuclear waste site in a minority or low-income area. Contact ADOH for further guidance.

E-8 Arizona Department Of Agriculture Notice Of Intent To Clear Land

Pursuant to A.R.S. § 3-904 the undersigned, as Owner of the Property described herein, gives this Notice of Intent to Clear Land of protected native plants.

1. **OWNER/LANDOWNER'S AGENT.** The owner or landowner's agent of the Property upon which protected native plants will be affected:

Owner's Name: _____

Address: _____
street city state zip

Agent's Name: _____

Address: _____
street city state
zip

2. **PROPERTY.** The description and location of the Property upon which protected native plants will be affected:

Name of Property/Project: _____

Address: _____

Physical Location (attach map): _____

Note: Map must also show surrounding land for 1/2 mile in each direction.

Tax parcel identification numbers: _____

Legal description (or attach copy): _____

Number of acres to be cleared: _____

3. **OWNER'S INTENT.** Landowner's intentions for the purpose of clearing private land of protected native plants.

- ❶ Owner intends to relocate and transplant the plants on the same property, or to another property he also owns.
- ❷ Owner intends to allow salvage of the plants, and may be contacted.
- ❸ Owner has already arranged for salvage of the plants.
- ❹ Owner does not intend to allow salvage of the plants.
- ❺ Other: _____

4. **APPROXIMATE STARTING DATE:** _____
(see notice period listed on reverse side)

Signature

Date

NOTICE TO SALVAGERS: CONSENT OF THE LANDOWNER IS REQUIRED BEFORE ENTERING ANY LANDS DESCRIBED IN THIS NOTICE.

Instructions

1. **Notice of Intent to Clear Land.** The majority of the desert plants fall into one of five groups specially protected from theft, vandalism or unnecessary destruction. They include all of the cacti, the unique plants like Ocotillo and trees like Ironwood, Palo Verde, and Mesquite. In most cases the destruction of these protected plants may be avoided if the private landowner gives prior notice to the Arizona Department of Agriculture.
2. **Notice Period.** When properly completed, this form is to be sent to the Department of Agriculture within the time periods described below. Landowners/developers are encouraged to salvage protected native plants whenever possible.
3. **Information to Interested Parties.** The information in this notice will be posted in the applicable county office of the Department and mailed to those parties (salvage operators, revegetation experts) who have an interest in these plants and may approach the landowner with the possibility of saving the plant(s) from unnecessary destruction.

Notes to Landowner:

1. The owner may not begin destruction of protected native plants until he receives written confirmation from the Arizona Department of Agriculture and the time prescribed below has elapsed.

Size of area which the destruction of plants will occur

Length of Notice Period

Less than 1 acre
1 - 39 acres
40 acres or more

20 days, oral or written
30 days, written
60 days, written

2. If you are clearing land over an area of less than one acre, oral notice may be given by calling the applicable county office at the telephone number given below, or by calling the PLANT WATCH HOTLINE AT 1-800-645-5440.
3. If the land clearing or plant salvage does not occur within one year, a new Notice is required.
4. This Notice must be sent to the applicable county office of the Arizona Department of Agriculture at the address given below:

Phoenix Office
1688 W. Adams
Phoenix, AZ 85007
Phone: 602/364-0935
FAX: 602/542-0466

Tucson Office
400 W. Congress, #124
Tucson, AZ 85701
Phone: 520/782-3681
FAX: 520/329-1128

E-8

E-9 Administrative Record

Recipient: _____

ADOH Contract No.: _____

Executive Order 11988
Floodplain Management

Note: Use this form only if the project is located in floodplain.
Each attachment should include the Recipient information at top of this page.
Please see the instructions on the next page.

1. Location of Project:
2. Floodplain Notice:
3. Identification and Evaluation of Alternatives:
4. Impact of the Proposed Project:
5. Actions to Minimize, Restore, and Preserve:
6. Re-evaluation of Proposed Project:
7. Public Notice of Decision:
8. Implementation. DO IT!!!

Prepared by:

Typed Name

Signature

Title

Date

Instructions

1. Using the floodplain map number, identify the location in terms of its location in or impact on a floodplain or wetlands.

EXAMPLE: S. Verde Park is located in Zone A as identified by the Federal Insurance Rate Map (FIRM), Community Panel, #0509013XXX, dated May 12, 1997, Yawn County.

2. Identify the date the Floodplain/Wetlands Notice was published, along with the newspaper, and attach a copy of the ad.

EXAMPLE: The Floodplain Notice (E-P.1) was published on May 1, 1998, in the All the News paper, and a copy of the ad and affidavit of publication are attached.

3. Describe the project and discuss possible alternatives to include: 1) alternative sites; 2) alternative actions (different ways to design the project to result in less environmental damage); and 3) no action.

EXAMPLE: Verde Park, which is located between 3rd and 5th streets along Mesquite Avenue, serves the primarily LM neighborhood north of the Highway. It is the only park in that area, but currently is little more than a "weedy lot", as it has no playground equipment, baseball fields, tennis courts or recreation center. All of the undeveloped land north of the Highway in that neighborhood lies within the floodplain. Thus, there is no other location to which this park could be moved. The "no action" alternative would allow the neighborhood to continue its physical and economic decline, as well as deprive the existing primarily LM residents of a quality recreational facility. It is hoped that the architectural design of the park will, if anything, mitigate floodplain problems in the surrounding areas, as excess water can be used to irrigate the park or a retention basin may be included in the park design.

4. Both direct and indirect, positive and negative, and short and long term impacts should be reviewed.

EXAMPLE: Extensive encroachment within the floodplain already exists as many of the homes, the school and parts of the commercial section of Compliance City were built in the floodplain, some as early as the 1910's and most of the rest between 1940 and 1970. As most of the land in the LM service area is fully developed, the park improvements will not encourage any more building in the area. Rather, these improvements will upgrade the neighborhood, arrest its decline and have a potentially positive impact, as a result of an architectural design which may result in less flooding to some of the City's streets. A telephone conversation between Vera Careful, Compliance City's Contact Person, and Al Knowing, the County's Floodplain Officer, on April 15, 1990, confirmed this information.

5. Describe the steps to be taken to minimize harm (including restoring and preserving the floodplain/wetlands).

EXAMPLE: The architect will be requested to ensure that the design mitigates flood damage, and to consult with the County's floodplain officer before implementing the project.

6. Review the information gathered to comply with Steps 3, 4, and 5 and state the decision.

EXAMPLE: As stated above, the only practicable alternative, which will not negatively impact on the LM neighborhood North of the highway, is to proceed with the Verde Park improvements, as there is no other land available for park development and no action will contribute to the decline of the area. Further, as most of the area is fully developed and current structures in the floodplain were built a long time ago, no actions relating to this proposed park project can negatively impact on the environment. Thus, all impacts of the project will be primarily beneficial, to include reducing flood damage that is often caused by heavy rains, due to the design of the park, which will mitigate such events.

7. Publish the notice to include the required floodplain language.

EXAMPLE: A Concurrent Notice (E-P.5) was published on June 1, 1998, in the *All the News*, which notified the public of the decision to proceed with this project. A copy is attached.

8. Go and DO IT!!!

E-10 Sample Letter

[Agency/Address]

Re: Environmental Review
(project name)

Dear [Name]:

The [City/Town/County/Agency] has been awarded (HOME, ADOH, Supportive Housing Funds) funds from the State of Arizona Department of Housing (ADOH) to undertake (describe activity), the project described in the attachment.

Enclosed is a map indicating the project location(s) and a description of the project(s) (attach description from application, scope of work from the contract, a copy of Form E-1 or Project Narrative) and a photograph (if Rehabilitation). In order to complete the Environmental Review Record we are requesting that you review the proposed project to determine if any actions are required to comply with regulations within the purview of your office or jurisdiction. Your earliest response would be appreciated.

If we do not receive a response by [35 days from date of letter], we shall assume that your agency does not wish to comment on this project and mitigating actions are not required. If you wish, for your convenience, you may respond by checking one of the boxes below and returning this letter. If you have any questions regarding this letter or the project, please contact [name and telephone number of program specialist].

Thank you for your assistance.

Respectfully,

[Name/Title]

Encl

cc: ERR File

- ☐ The proposed project does not require a mitigating action.
- ☐ The proposed project does require mitigating action, please see attached.

Signature of Respondent

Recipient _____

ADOH Contract No.: _____

E-11 Environmental Assessment Checklist

NOTE: This form must be completed for all Environmental Assessment Projects.
Refer to instructions on the next page to complete this form.

Impact Categories	Impact Code	Supporting Documentation MUST be cited (phone calls, letters, on-site visits)
LAND DEVELOPMENT		
1. Conformance with Comprehensive Plans and Zoning		
2. Compatibility and Urban Impact		
3. Slope		
4. Erosion		
5. Soil Suitability		
6. Hazards and Nuisances, including Site Safety		
7. Energy Consumption		
ENVIRONMENTAL DESIGN AND HISTORIC VALUES		
8. Visual Quality - Coherence, Diversity, Compatible Use & Scale		
COMMUNITY FACILITIES AND SERVICES		
9. Solid Waste		

Impact Code:

- | | |
|---|---|
| A. No Impact Anticipated | D. Potentially Adverse, Requires More Study |
| B. Potentially Beneficial | E. Needs Mitigation |
| C. Potentially Adverse, Requires Documentation Only | F. Requires Project Modification |

GUIDANCE QUESTIONS FOR ENVIRONMENTAL ASSESSMENT

1. Comprehensive Planning and Zoning Conformance

CONCERNS: Is the proposal consistent with the completed components of local plans and supporting zoning? If not and the project is to continue, provide a supporting discussion explaining the decision basis. Identify areas where the project may conform to local planning objectives. Identify any anticipated functional conflicts and plans for mitigation where necessary.

ACTION: Contact the local planning and zoning official.

2. Compatibility and Urban Impact

CONCERNS: Covers such concerns as incompatible land use due to opposing functional needs or encroachment tendencies of one use upon another, (overcrowding of buildings on the land, non-conforming land use, non-conforming building use, inducing excess traffic, causing excess noise and similar day-to-day functional demands). If a project locates water/sewer lines in a base flood hazard zone, will it induce development into such a hazardous area? Will secondary impacts occur such as encouraging urban sprawl prior to development of an applicable growth management plan and supportive zoning? Would the project impose new development into an existing neighborhood that would aggravate the transitional character of the neighborhood or increase new unwanted intrusions (introduction of off-street or on street parking, introduction of lighting to a park to encourage night use of the park area where not previously found)?

ACTION: Contact the local planning department or review the site.

3. Slope Stability

CONCERNS: If applicable, the following slope issues should be examined; (1) evidence of mud slides or other earth movement, (2) evidence of slump occurrences, (3) neighboring retaining walls tilting from possible past earth movement or that might indicate conditions prone to sliding.

ACTION: Contact the project engineer.

6. Hazards, Nuisances And Site Safety

CONCERNS: Form E-4 requires an examination for potential danger to project beneficiaries from exposure to hazards such as sanitary and hazardous waste landfills, toxic chemical dumps, uranium mill tailings and other radioactive materials in nearby lands. In addition, an evaluation of explosive and flammable or fire-prone hazards is required. Other hazards include the presence of rodent infestation; nuisances from odors; glare; dust; vibration; inadequate street lighting; improperly screened drains or catchments; abandoned-dilapidated buildings improperly boarded-up; unscreened quarries or other excavation works; dangerous intersections; hazardous; unrepaired street conditions; street pounding causing nuisance ingress and egress problems to the project area; and similar safety concerns.

ACTION: Contact the Arizona Department of Health Services; Department of Environmental Quality. Conduct a visual review of the site.

7. Energy Consumption

CONCERNS: Energy consumption is viewed in a two-fold manner: (1) energy consumed directly by the facility to be constructed as to heating and cooling, hot water and, (2) energy consumed indirectly or induced by the facility, consumed chiefly in the transportation of people and goods to and from the project.

ACTION: Contact the project architect, engineer, or the Arizona Energy Office.

8. Visual Quality: Coherence, Diversity, Compatible Use and Scale

CONCERNS: Will the project cause the noticeable deterioration or physical alteration of the natural landscape without comparable mitigation? Will there be an intrusion of elements out of character, size, scale or setback? Will the project alter established vistas and views, enclosed or open? Will landmarks or focal points become obscured by the project proposal? Will established pathways, bikeways or trails be impaired? Are complimentary features established to existing distinguishing landmarks or development features in the impact area of the project? Will unique building groups be impaired visually by project?

ACTION: Contact the project architect or engineer.

9. Solid Waste

CONCERNS: Will the project generate substantial amounts of solid waste? Can the local disposal system adequately service the proposed development over its expected lifetime? Is collection service adequate? Are there any local concerns as to potential health threats from collection practices or from the solid waste disposal facility? Is recycling of project-generated solid waste practicable?

ACTION: Contact the project architect and local solid waste disposal service.

Impact Categories	Impact Code	Supporting Documentation MUST be cited (phone calls, letters, on-site visits)
COMMUNITY FACILITIES AND SERVICES (cont'd)		
10. Wastewater		
11. Storm Water		
12. Water Supply		
13. Public Safety Police		
Fire		
Emergency Medical		
14. Open Space Open Space		
Recreation		
Cultural Facilities		
15. Transportation		
16. Educational Facilities		
17. Commercial Facilities		

Impact Code:

- | | |
|---|---|
| A. No Impact Anticipated | D. Potentially Adverse, Requires More Study |
| B. Potentially Beneficial | E. Needs Mitigation |
| C. Potentially Adverse, Requires Documentation Only | F. Requires Project Modification |

E-11

GUIDANCE QUESTIONS FOR ENVIRONMENTAL ASSESSMENT

10. Wastewater

CONCERNS: If applicable, will the existing wastewater treatment system and facilities adequately service the proposed project? Will the project cause the design capacity to be exceeded? Will project residents or beneficiaries be adversely affected by a wastewater treatment facility? Is the wastewater treatment plant serving residents approved by appropriate health officials?

ACTION: Contact the project architect, engineer, and the Arizona Department of Environmental Quality.

11. Storm Water

CONCERNS: If applicable, will the existing or planned storm water disposal and treatment system adequately service the project or project beneficiaries? Will the project cause an overload of the design capacity of the storm water facilities? Are the project beneficiaries subject to temporary flooding or ponding impacts in terms of impairment of access to their residences?

ACTION: Contact the project engineer or architect.

12. Water Supply

CONCERNS: Is there a potable water supply available for project beneficiaries? Is it periodically inspected by health authorities?

ACTIONS: Contact the local water utility and the Arizona Department of Environmental Quality.

13. Public Safety: Police, Fire, Emergency

CONCERNS: Are the project beneficiaries adequately serviced by police, fire, and emergency services? Is there 24-hour police patrol service? Are special plans needed for added staff or a special project-related security system? Is the crime rate in the project area characterized by any unique manifestations requiring special services, i.e., a high instance of drug use by teenagers, breaking and entering, street crimes?

Is the access time of fire vehicles to the project area in accord with local standards? Are the building materials in the project area in compliance with local fire codes? Are fire hydrant locations located in accord with local development criteria? Is there fire fighting equipment storage?

Are emergency services available and appropriate to the needs of project beneficiaries? Is the access route for accessibility in compliance with local regulations? Will the project create any obstacles for emergency vehicles in meeting their responsibilities?

ACTION: Contact local law enforcement and fire protection officials.

14. Open Space And Recreation

CONCERNS: Is there adequate park and open land for use by project area residents? Will the project cause a lessening of the availability of service? Is park and recreation space conveniently accessible and usable to all resident groups in the project area? Is there a need to be filled?

ACTION: Contact the local parks and recreation official or community planner.

15. Transportation

CONCERNS: If applicable to project objectives, is there adequate access to the locally recognized public transportation system? Is the service directly and conveniently available? Do any project beneficiaries need special transportation considerations due to the inadequacy of convenient shopping services? Will the project serve to reduce the mobility of any segment of the population?

ACTION: Contact the local transit service or community planner.

16. Education

CONCERNS: Will the project impact on the local schools? Is sufficient capacity available? Does the project affect safe access to existing schools? Has the school been informed of the project? Are special education services needed?

ACTION: Contact the local school board office.

17. Commercial Facilities

CONCERNS: Will the project impact on commercial service facilities? Are additional commercial services needed to assure that project area residents have a full range of services at competitive prices? Do project beneficiaries have convenient and safe access to a full range of commercial services?

ACTION: Contact the local planning and zoning official.

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Impact Categories	Impact Code	Supporting Documentation MUST be cited (phone calls, letters, on-site visits)
COMMUNITY FACILITIES AND SERVICES (cont'd)		
18. Health Care		
19. Social Services		
NATURAL FEATURES		
20. Water Resources		
21. Surface Water		
22. Water Courses		
23. Unique Natural Features and Agricultural Lands		
24. Vegetation and Wildlife		
SOCIOECONOMIC		
25. Demographic Character Comprehensive Plans and Zoning		
26. Displacement		
27. Employment and Income Patterns		

Impact Code:

- | | |
|---|---|
| A. No Impact Anticipated | D. Potentially Adverse, Requires More Study |
| B. Potentially Beneficial | E. Needs Mitigation |
| C. Potentially Adverse, Requires Documentation Only | F. Requires Project Modification |

GUIDANCE QUESTIONS FOR ENVIRONMENTAL ASSESSMENT

- 18. Health Care**
CONCERNS: Do project beneficiaries have any unrecognized health service needs, i.e., emergency medical services, ambulance service, visiting health service for the elderly or homebound?
ACTION: Contact local health agencies.
- 19. Social Services**
CONCERNS: Will the project objectives be influenced by the availability or the lack of special social services, i.e., children support groups, childcare centers, family counseling services, services for the elderly? Is there a need for youth recreation centers?
ACTION: Contact local social service agencies.
- 20. Water Resources**
CONCERNS: Will the project use local groundwater resources or wells? Is there a high water table that should be considered during project construction? Is there a possible subsidence problem due to dependence on wells or groundwater resource?
ACTION: Contact the project engineer and the Arizona Department of Water Resources and Arizona Department of Environmental Quality.
- 21. Surface Water**
CONCERNS: On-site seepage or springs may indicate potential drainage problems or impacting of a groundwater resource. Is there evidence of impoundment of water on the project site? Will the project significantly add to the impervious surface in its impact area and thereby increase demands on drainage facilities?
ACTION: Contact the project engineer or architect.
- 22. Water Course**
CONCERNS: Will watercourses other than coastal zones be impacted as a result of project action? Will such impacts cause a loss of natural drainage areas or a loss of riparian features amenable to recreation use in its natural state? Will the project damage game and/or fish habitats or spawning grounds? Will cut and fill work alter the watercourse path or boundaries?
ACTION: Contact the U.S. Fish and Wildlife Service and the project architect/engineer.
- 23. Unique Natural Features And Agricultural Lands**
CONCERNS: Will the project affect unique natural features such as dunes, waterfalls, rock-outcroppings, stands of trees, planting areas, natural landmarks, or focal points? Will natural pathways be affected? Will unique or prime agricultural land areas be affected or farmlands designated as important by state or local government?
ACTION: Conduct an on site review, contact the local extension service or local zoning department.
- 24. Vegetation And Wildlife**
CONCERNS: Will the project damage or destroy existing remnant plant communities, wildlife habitat, or their food chain? Will the project create environmental conditions eliminating plant life without mitigation measures? Will it, conversely, create conditions favorable to the proliferation of pest species, i.e., rats, flies and mosquitoes?
ACTION: Contact the Arizona Game and Fish Department and conduct an on-site review.
- 25. Demographic Character Changes**
CONCERNS: Demographic (distribution of commonly identified segments of the population) characteristics can provide an indication of the special needs of various segments of the population. Consider the following questions: Will the project measurably alter the tenant-owner status of the area? Will special services be needed, i.e., relocation services, home maintenance counseling or assistance? Will certain segments of the population become isolated by the project, i.e., elderly low-income? What affect will the project have on the vacancy ratio? Will special social services created by the population composition changes be needed in the project impact area, i.e. job counseling, youth services, elderly services, child-care, visiting nursing service?
ACTION: Contact the local planning department and social service agencies.
- 26. Displacement**
CONCERNS: Will the project displace individuals, families or businesses? If so, are relocation services available? If necessary, are appropriate relocation resources available?
ACTION: Contact the local Public Housing Authority and the Recipient itself.
- 27. Employment And Income Pattern**
CONCERNS: Will the project create favorable or unfavorable conditions for expansion of commercial or industrial business life? Will project area residents directly benefit? Will there be negative impacts on the project area's residential life? Will employment opportunities be available to the locally unemployed or under-employed? Will there be more entrepreneurial opportunities available to local population? Will the housing stock be affected if a high number of new, outside employees are imported?
ACTION: Contact the local planning and zoning official.

E-11

28. Summary of Findings and Conclusions

29. ALTERNATIVES TO THE PROPOSED ACTION

Alternatives and Project Modifications Considered

(Identify other reasonable courses of action that were considered and not selected, such as other sites, design modifications, or other uses of the subject site. Describe the benefits and adverse impacts to the human environment and the reasons for rejecting it.)

30. No Action Alternative

(Discuss the benefits and adverse impacts to the human environment of not implementing the preferred alternative.)

31. Mitigation Measures Recommended

(Recommend feasible ways in which the proposal or external factors relating to the proposal should be modified in order to eliminate or minimize adverse environmental impacts.)

32. Additional Studies Performed

(Attach studies or summaries.)

33. a. The project is in compliance with applicable laws and regulations. ____Yes ____No
- b. An EIS is required. ____Yes ____No
- c. A Finding of No Significant Impact (FONSI) can be made because the project will not significantly affect the quality of the human environment. ____Yes ____No

Prepared By: _____ Date: _____
(Name/Title)

E-11

E-12 Request For Release Of Funds And Certification



E-12 Request for Release of Funds and Certification

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s) Number (Optional)	2. HUD/State Identification Number	3. Recipient Identification
4. CFDA Number(s)	5. Name and Address of Responsible Entity	
6. For information about this request, contact (name and phone number)		
7. HUD or State Agency and office unit to receive request	8. Name and address of Recipient (if different than Responsible Entity)	

The recipient(s) of assistance under the program listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following:

9. Program Activity(ies)Project Name(s)	10. Location (Street address, city, county state)
---	---

11. Program Activity/Project Description

Part 2. Environmental Certification (to be completed by Responsible Entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the Responsible Entity, certify that:

1. The Responsible Entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the Project(s) named above.
2. The Responsible Entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal ☐ did ☐ did not require the preparation and dissemination of an environmental impact statement.
4. The Responsible Entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
5. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
6. In accordance with 24 CFR 58.71(b), the Responsible Entity will advise the recipient (if different from the Responsible Entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated Certifying Official of the Responsible Entity, I also certify that:

7. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the Responsible Entity.
8. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as Certifying Officer of the Responsible Entity.

Signature of Certifying Officer of the Responsible Entity	Title of Certifying Officer
x	Date Signed
Address of Certifying Officer	

PART 3. TO BE COMPLETED WHEN THE RECIPIENT IS NOT THE RESPONSIBLE ENTITY

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient	Title of Authorized Officer
x	Date Signed

E-13 Authority To Use Grant Funds



E-13 Authority to Use Grant Funds

To: (name and address of Grant Recipient and Chief Executive Officer):	Copy to: (name and address of Subrecipient):
---	---

We received your Request for Release of Funds and Certification, ADOH Form E-12 on	
Your Request was form HUD/State Identification Number	

objections, if received have been considered and the minimum waiting period has transpired. You are hereby authorized to use funds provided to you under the above HUD/State Identification Number. File this form for proper recordkeeping, audit and inspection purposes.

Signature of Authorized Officer of the Recipient	Title of Authorizing Officer
Name of Authorizing Officer	Date Signed

Recipient: _____

ADOH Contract No.: _____

ENVIRONMENTAL REVIEW RECORD

E-14 Re-evaluation of ERR

1. Project Title:
2. Describe the proposed change(s) in the project:
3. List the circumstances that determined the project to be Categorically Excluded or the findings in the original EA.
4. Describe how the changes either change or do not change the circumstances or findings in question 3.
5. Certification:
 - ☐ I certify that the proposed change to the project does NOT affect the original decision of a Finding of No Significant Impact (FONSI) made for this project or the determination of the project's category as a Categorical Exclusion. Further, no new circumstances or environmental conditions have occurred which may have a bearing on the project's impact. The original FONSI or CE project category is therefore still valid and no new assessment needs to be performed.
 - ☐ I certify that the changes to the project render the original circumstances or findings invalid and that an (new EA or EIS) will have to be conducted.

Typed Name of Certifying Officer

Signature of Certifying Officer

Date

15.0 HOUSING REHAB FORMS

Recipient: _____

ADOH Contract No.: _____

E-HR.1 Rehabilitation Environmental Review (2004)

This **MRER** tiered review format [per 24CFR §58.15] may only be used for the environmental review of the rehabilitation of existing residential structures [according to §58.35(a)(3)] with or without the acquisition of the existing structure [according to §58.35(a)(5)]. It may not be used for projects involving changes of use or new construction activities. It may be used for the rehabilitation of individual units in a multi-family structure, but not for the rehabilitation/acquisition of an entire multi-family building, where using a Statutory Worksheet is recommended.

Program/project name and description:

From (month/year):

To (month/year):

Definition of Area of Consideration:

(Attach a composite map showing area of consideration and floodplains)

Instructions:

The Factors addressed in this RER form apply to the entire area of consideration (see NOTES below). Prepare an **MRER** form **once for each program** that meets the criteria of minor rehabilitation/acquisition at §58.35, and retain it in the Environmental Review Record (**ERR**). A new RER must be completed whenever there are changes in the area of consideration or changes in the environmental conditions which could affect the program or which may bear on the program's impact on the environment. Publish or disseminate a Notice of Intent to Request Release of Funds (NOI/RROF) per §58.70, after completion of this RER. The **NOI/RROF** shall identify the issues to be addressed in the **site-specific reviews (Appendix A)** per §58.15. **Do not commit HUD funds to specific projects before obtaining the Authority to Use Grant Funds** (HUD form 7015.16) for the program or before completing the site-specific **Appendix A**.

Site specific issues (historic preservation, air quality, explosive/flammable operations, toxic substances, airport clear zones) which apply to individual rehabilitation/acquisition proposals, shall be addressed by completing **Appendix A** when an individual loan or grant application is received. Before **approving any site-specific loan or grant, complete the Appendix A for each structure, document and implement the mitigation of impacts as necessary, and keep all supporting documents in the ERR as evidence of compliance.**

Area-wide Factors

Floodplain Management

- ☐ Check box only if no part of the area of consideration is located in a Special Flood Hazard Area (**SFHA**, i.e. area designated "A" or "V" Zone by FEMA) .

(Source documentation, e.g. FIRM panel number[s] and date)

If any part of the area of consideration is in a SFHA, complete Part I on back.

Coastal Zone Management

- ☐ Check box if no part of the area of consideration is within the Coastal Zone according to the California Coastal Commission, Hawaii Coastal Commission, San Francisco Bay Conservation & Development Commission or the Planning Department (if certified Local Coastal Plan).

(Source documentation)

If any part of the area of consideration is within the Coastal Zone, complete Part II on back.

NOTES:

1. **Area of consideration** is the geographic portion of a City or County from which applications for rehabilitation/acquisition loans or grants are to be accepted under this HUD-funded program.
2. Ordinarily, the following **laws/authorities listed at 24 CFR 58.5** are not invoked by housing rehabilitation projects under the identified citations or references: Wetland Protection, Executive Order 11990, Sections 1(a) and 2(a); Endangered Species Act, 16 USC 1531 et seq. as amended, particularly 16 USC 1536, 50 CFR 402; Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271 et. seq., as amended [particularly Sections 7(b) and (c)]; Farmland Protection Act, 7 CFR 658.3(c); Noise Abatement, 24 CFR 51.101(a)(2); Sole Source Aquifers, Memorandum of Agreement between HUD Region IX and U.S. Environmental Protection Agency Region IX, dated 4/30/90, and Executive Order 12898 Environmental Justice. **Should exceptional circumstances require compliance steps with any of these authorities, such compliance must be documented prior to approving the site-specific loan or grant.**

Part I **FLOODPLAIN MANAGEMENT**

Complete this part if this program will ever involve any of the following activities within Special Flood Hazard Areas: (1) property acquisition, (2) rehabilitation of single family units exceeding 50% of the market value of the structure before rehabilitation, or (3) rehabilitation of multifamily residential structures.

1. Before approving any minor rehabilitation/acquisition loans or grants within a SFHA, comply with Executive Order 11988 by completing the 8-step-decision-making process for the entire area of consideration, according to 24 CFR §55.20. **ATTACH A COPY OF THIS 8-STEP PROCESS (including copies of all published notices).**
2. Did completion of the 8-step process result in a determination that there is no practicable alternative to carrying out rehabilitation and/or acquisition of residential units within the Special Flood Hazard Area?
() Yes () No
3. Is the community participating in the National Flood Insurance Program?
() Yes () No
4. If either answer to questions #2 and #3 (or to both) is no, loans and grants may not be approved within the Special Flood Hazard Area.
5. If both answers to questions #2 and #3 are yes, compliance review of this factor is complete.

NOTE: As an alternative to doing the 8-step process, the responsible entity may choose to revise the boundaries of the area of consideration to exclude the Special Flood Hazard Areas (**SFHA's**). However, properties within the excluded portions would then be ineligible for HUD-assisted acquisition/rehabilitation loans or grants under this program.

WARNING: The Flood Disaster Protection Act (listed at §58.6) additionally mandates the purchase of **flood insurance** for buildings located in SFHA's as a condition of approval for federal financial assistance. Flood insurance protection is mandatory for acquisition, construction, reconstruction, repair and improvement activities, but **not for routine maintenance** activities. Recipients with projects located in SFHA's are responsible for ensuring that flood insurance is maintained for the statutorily prescribed period and dollar amount. In the case of grants, flood insurance must be maintained for the life of the building. In the case of loans, flood insurance must be maintained for the term of the loan. The necessary documentation for compliance is the Policy Declaration form. The amount of flood insurance coverage must be at least equal to the total project cost (less the estimated land cost) or to the maximum limit of coverage made available by the Act.

Part II **COASTAL ZONE MANAGEMENT**

Complete this part only if you have determined that the area of consideration (or portions of it) is within the Coastal Zone.

1. Have all acquisition/rehabilitation activities under this program been found to be consistent with the applicable Coastal Zone Management Plan?
() Yes () No

Source of this finding is:

- () certified local Planning Department
- () California Coastal Commission / Hawaii Coastal Commission
- () San Francisco Bay Conservation & Development Commission

a. If question #1 was answered "Yes", STOP HERE. Compliance with the Coastal Zone Management Act is documented.

- b. If question #1 was answered "No", require the acquisition of the coastal zone permit or determination of consistency.
DO NOT APPROVE ANY HUD-FUNDED LOAN OR GRANT WITHIN THE COASTAL ZONE before doing this.

Preparer Name and Title	Signature	Date
Responsible Entity Official-Name	Signature	Date

E-HR.2 Appendix A 2004
(All previous versions are obsolete)

This Appendix A must be completed for each residential structure proposed for minor rehabilitation and/or acquisition before HUD funds are committed to specific projects. It may be used only in conjunction with a currently valid **RER** (Rehabilitation Environmental Review) form. Completion of the Appendix A will not require the submission of an additional RROF/EC (Request for Release of Funds/ Environmental Certification) if it was submitted at the conclusion of the RER, unless there are unanticipated impacts/circumstances which have previously not been adequately addressed.

Building Address: _____

Part III HISTORIC PRESERVATION

1. Does the project involve only those activities permitted without further consultation under a currently valid **programmatic agreement** among the responsible entity, the State Historic Preservation Officer (**SHPO**) or Tribal Historic Preservation Officer (**THPO**) and/or the Advisory Council on Historic Preservation?
() Yes () No
If yes, note date of programmatic agreement _____ and STOP here;
the Section 106 Historic Preservation review is complete. If no, PROCEED.
2. Does the project involve only acquisition and/or minor, interior rehabilitation of a 1-4 unit residential structure that is **less than 50 years old**, with **no visible changes to the exterior** and **no potential to cause effects** on historic properties per §800.3(a)(1)? () Yes () No
If Yes, record date of building construction _____, age: _____ years,
and STOP here. The Section 106 Historic Preservation review part is complete. If No, PROCEED.
3. If the proposed rehabilitation involves exterior physical work on any structure, **determine** -in consultation with the appropriate **SHPO/THPO**- whether the building is **listed or eligible** for inclusion in the National Register of Historic Places (**NR**).
Is the building listed in or eligible for listing in the NR? () Yes () No
If No, attach SHPO/THPO concurrence or other evidence of conclusion and STOP here. This part is complete pursuant to 36 CFR §800.4(d). If Yes, Proceed.
4. Determine whether **historic properties are affected** per §800.4(d). Has SHPO/THPO concurred with your fully documented determination of "no historic properties affected", or failed to object within 30 days of receipt of such determination?
() Yes. Enclose documentation and stop here. Section 106 review is complete.
() No. Proceed.
5. **Determine whether the project will have adverse effect** on historic properties according to § 800.5, in consultation with the SHPO/THPO and consulting parties [see §800.2(c)].
Will this project have an adverse effect on historic properties? () Yes () No
If "no", attach SHPO/THPO concurrence and STOP here. This part is complete per 36 CFR §800.5(d)(1).
If "yes", PROCEED.
6. Resolve Adverse Effects per §800.6 -in consultation with the SHPO/THPO, the Advisory Council on Historic Preservation (ACHP) if participating, and any consulting parties. The loan or grant may not be approved until adverse effects are resolved according to §800.6 or ACHP comment is considered by the Responsible Entity.

- NOTES:**
1. The determination/consultation of eligibility for the NR, may be sent to SHPO/THPO concurrently with the determination/consultation of effect or no effect and with the determination/consultation of adverse/no adverse effects.
 2. The jurisdiction's Chief Executive Officer cannot delegate the decision to approve a project in opposition to Advisory Council comment. 3. Keep copies of this form, all SHPO/THPO and ACHP correspondence in the ERR as evidence of compliance with Section 106 of the National Historic Preservation Act.

Part IV AIRPORT CLEAR ZONES

1. Does this project involve the purchase or sale of existing property? () Yes () No
If no, STOP here. This part is complete, pursuant to 24 CFR Subpart D §51.302. If yes, PROCEED.
2. Is the subject property located in the Clear Zone (CZ), Approach Protection Zone, or in the Runway Clear Zone (RCZ) of a commercial civil airport or military airfield? () Yes () No

Source Documentation:

If no, STOP here; this part is complete. If yes, PROCEED.

Provide a **disclosure statement** advising the buyer that the property is in a RCZ or CZ, what the implications of such a location are and that there is a possibility that the property may, at a later date, be acquired by the airport operator. Obtain the buyer's signature acknowledging receipt of this information and attach it to this Appendix. (This disclosure requirement does not apply to Accident Potential Zones).

Part V EXPLOSIVE & FLAMMABLE OPERATIONS

1. Will this proposed acquisition/rehabilitation project result in increased residential density or cause a vacant building to become physically or legally habitable? () Yes () No
If the answer to both parts of the question is No, STOP HERE. This part is complete per 24 CFR §51.201. If the answer is Yes, PROCEED.
2. Is this proposed project within 1 mile of any visible, explosive-or-flammable-substance container (a stationary, above-ground tank with a capacity of more than 100 gallons)? () Yes () No (See 24 CFR 51C, Appendices I and II).

Field inspection by: _____ Date: _____

If No, STOP here. This part is complete. If yes, PROCEED.

3. Note Tank volume: _____ gallons, or diked area around tank: _____ square feet.
Record distance from the project to the flammable/explosives container: _____ feet.
4. According to HUD Guidebook "Siting of HUD-Assisted Projects Near Hazardous Facilities" (HUD-1060-CPD), the **Acceptable Separation Distance (ASD)** for both, blast overpressure **and** thermal radiation is: _____ feet. (The applicable ASD [see Appendix F for Thermal Radiation or Appendix G for Blast Overpressure] is the greater of the two distances).
5. The project is located at an Acceptable Separation Distance according to Appendices F and G.
() Yes () No If yes, STOP here; this part is complete.

If no,

() DENY PROJECT APPROVAL, or

() APPROVE only with the following mitigation measures designed in compliance with 24 CFR §51.205:

**Part VI TOXIC/HAZARDOUS/RADIOACTIVE MATERIALS, CONTAMINATION,
CHEMICALS OR GASES (24 CFR 58.5(i)(2))**

1. Are there visible dumps, landfills, industrial sites or other locations containing or releasing toxic/hazardous/ radioactive/ materials, chemicals or hazardous wastes on or near the subject site?
() Yes () No Proceed.

2. Does this project site contain an underground storage tank (which is not a residential fuel tank)?
() Yes () No Proceed.

Field Inspection by: _____ Date: _____

3. Do Federal, State or local environmental records sources reveal nearby on or nearby sites that may pose threats to the subject site occupants' health or safety? () Yes () No Document, proceed.

Environmental Records Sources researched:

4. **Determination:** Is the subject property is free of hazardous materials, contamination, toxic chemicals, gases and radioactive substances which could affect the health or safety of occupants or conflict with the intended use of the property? () Yes () No

If yes, the proposal is in compliance with HUD environmental policy on toxic/hazardous substances.
If no, PROCEED.

4. Gather all pertinent information about the on-site or nearby toxic hazard - e.g. waste characteristics, quantity, distance, prevailing wind direction, direction of slope, etc. Contact the State Department of Health Services or Air Quality Management District (in California), as needed, for assistance in assessing exposure to health hazards. Determine whether nearby toxic, hazardous or radioactive substances could affect the health and safety of project occupants.
6. Mitigate the adverse environmental condition by shielding, removing or encapsulating the toxic substances in accordance with the requirements of the appropriate Federal, state or local oversight agency; **OR** reject the subject proposal. **DENY HUD ASSISTANCE** if, after mitigation, the housing is still determined to be in an **UNSAFE OR UNHEALTHY ENVIRONMENT**. Attach all pertinent documentation.

PART VII LEAD BASED PAINT

(Applicable to Housing Rehab Projects starting with those funded from FY 2002 funds)

1. Was the construction of the subject building completed on or after January 1, 1978? () Yes () No
If yes, record the year of construction (_____) and stop here; this part is completed. **If no, proceed.**
2. Is this property a Single Room Occupancy Dwelling Unit, a residential property designated exclusively for persons with disabilities or the elderly; where a child under six years old is not expected to reside?
() Yes () No If yes, stop here; this part is completed. **If no, proceed.**

3. Has this property been inspected in accordance with §35.1320(a) and found not to have lead based paint?
☐ Yes ☐ No
 If yes, attach a copy of the inspection report as **pages** _____ and stop here; this part is now completed. **If no, proceed**
5. Has all LBP been removed, interim controlled or abated and LBP clearance for the property achieved?
☐ Yes ☐ No
 If yes, attach a copy of the clearance report **as pages** _____ and stop here; this part is now completed. **If no, proceed.**
5. Is this rehabilitation which will not disturb a painted surface, or is the disturbance limited to 20 square feet exterior painted surfaces or 2 square feet painted surfaces in any one interior room? [See §35.1350(d)]
☐ Yes ☐ No
- If yes, stop here; this part is completed. **If no, proceed to the number below**, associated with the level of Federal rehabilitation assistance applicable to this project.
6. Are the average Federal funds for the hard costs of rehabilitation per unit limited to \$5,000 or less?
☐ Yes ☐ No
 If yes, conduct paint testing per Sec. 35.930(a)(1) and implement safe work practices per § 35.930(a)(2) OR presume LBP and implement safe work practices. Either way, conduct a clearance examination, per §35.930(b)(3) after rehabilitation. Attach a copy of the paint test (if applicable) **as pages** _____ and clearance examination reports **as pages** _____, after completion.
7. Are the average Federal funds for the hard costs of rehabilitation per unit more than \$5000 but not exceeding \$25,000? ☐ Yes ☐ No
 If yes, conduct paint testing per Sec. 35.930(c)(1) and a risk assessment per Sec. 35.930(c)(2); perform interim controls per Sec. 35.1330 (see Sec. 35.930(c)(3)) OR presume LBP and/or hazards present and use standard treatments per Sec. 35.120(a). Either way, conduct a clearance examination per Sec. 35.930(b)(3) after rehabilitation. Attach a copy of the paint test **as pages** _____ and risk assessment (if applicable) **as pages** _____, and clearance examination reports **as pages** _____, after completion.
8. Are the average Federal funds for the hard costs of rehabilitation per unit more than \$25,000?
☐ Yes ☐ No
 If yes, conduct paint test and perform a risk assessment per §35.930(d)(2), or presume LBP. Abate all LBP hazards identified by the paint test or risk assessment conducted and any LBP hazards created as a result of the rehabilitation work, in accordance with §35.1325, except that interim controls are acceptable on exterior surfaces that are not disturbed by rehabilitation. Either way, conduct a clearance examination per Sec. 35.930(b)(3) after rehabilitation. Attach a copy of the paint test **as pages** _____ and risk assessment (if applicable) **as pages** _____, and clearance examination reports **as pages** _____, after completion.
- * Notes: If Federal rehabilitation assistance under the HOME program is also used, recipient shall require property owner to incorporate ongoing LBP maintenance activities into regular building operations, per Sec. 35.1355(a) (see Sec. 35.935). Also, there are notification requirements for all rehabilitation activities: Lead Hazard Information Pamphlet, disclosure of known LBP hazards, and notices of lead hazard evaluation/reduction activity (see Sec. 35.910).

Preparer Name and Title	Signature	Date
Responsible Entity Official-Name and Title	Signature	Date

16.0 ADOH MONITORING FORMS

Recipient: _____ Contract # _____
Monitoring _____
Date: _____ Reviewer: _____

ENVIRONMENTAL REVIEW RECORD

Automatically Exempt And Downgraded Exempt Projects – Desk Monitoring Form

Activity Name: _____

Review activity description in application forms or contract scope of work.

AUTOMATICALLY EXEMPT ACTIVITIES	Yes	No	N/A
A. ERR includes:			
1. Correct and complete Project Narrative (E-1)			
2. Map			
3. Documentation of Exemption (E-2)			
4. Determination Form (E-3)			
5. Level of Environmental Review (E-3.1)			
B. Automatically Exempt status of activity(ies) appears reasonable			
C. Prepare Authority to Use Grant Funds/Approval to Obligate (E-13) effective signature date on E-2.			

DOWNGRADED EXEMPT ACTIVITIES	Yes	No	N/A
A. If Reassessment/Re-evaluation (E-14)			
1. Correct and complete			
2. Correct Certifying Officer			
3. a. Original ERR no more than 3 years of E-14 date			
b. Effective date of original E-13:			
c. If YES to 3.a, prepare Authority to Use Grant Funds (E-13)			
B. ERR includes:			
1. Correct and complete Project Narrative (E-1)			
2. Map			
3. Documentation of Exemption (E-2)			
4. Determination Form (E-3)			
5. Level of Environmental Review (E-3.1)			
6. Statutory Checklist (E-4)			
a. Documentation column cites sources			
b. Sources are reasonable, include dates and initials			

DOWNGRADED EXEMPT ACTIVITIES (cont'd)		Yes	No	N/A
5	c. Review correspondence (E-4)			
	i) All appropriate agencies contacted. If no, list agencies that should have been contacted:			
	ii) List any contingencies from agency responses:			
	F. Downgraded Exempt status of activity(ies) appears reasonable			
	G. Prepare Authority to Use Grant Funds/Approval to Obligate (E-13) effective signature date on E-2.			

ADOH Staff: _____		Date: _____	
Contact Person: _____		Phone or Fax: _____	
Approved:	<input type="checkbox"/> Yes	Contingent Upon:	_____
	<input type="checkbox"/> No		
Recipient notified on (date): _____		by	_____
			<input type="checkbox"/> copy of this form <input type="checkbox"/> separate letter/fax <input type="checkbox"/> e-mail

Comments:

Recipient: _____ Contract # _____
 Monitoring
 Date: _____ Reviewer: _____

ENVIRONMENTAL REVIEW RECORD

Categorically Excluded Projects – Desk Monitoring Form #1

Activity Name: _____

Review activity description in application forms or contract scope of work.

Check other contracts for this Recipient to see if there are other activities in the same area that should be grouped together and considered in the ERR.

If Reassessment/Re-evaluation, complete Section A. Complete Section B. for all other Categorically Excluded activities.

A. Reassessment/Re-evaluation (E-14)	Yes	No	N/A
1. Correct and complete			
2. Correct Certifying Officer			
3. a. Original ERR no more than 3 years of E-14 date			
b. Effective date of original E-13:			
c. If YES to 3.a, prepare Authority to Use Grant Funds (E-13)			

B. All Other CE Projects	Yes	No	N/A
1. Correct and complete Project Narrative (E-1)			
2. Map and/or Floodplain map			
3. Determination Form (E-3)			
4. Level of Environmental Review (E-3.1)			
5. Statutory Checklist (E-4)			
a. Documentation column cites sources			
b. Sources are reasonable, include dates and initials			
c. Review correspondence (E-4)			
i) All appropriate agencies contacted			
If No, list agencies that should have been contacted:			
ii) List any contingencies from agency responses:			

Categorically Excluded Projects (cont'd)	Yes	No	N/A
7. Notice of Intent to Clear Land (E-8), if applicable			
8. Administrative Record (E-9), if floodplain			
a. Complete			
b. Reasonable			
9. Review publications			
a. Floodplain Notice (E-P.1) correct and complete			
i) Publication date:			
ii) End of comment period:			
iii) 15 days for comment period			
iv) Comments:			
b. Draft NOI/RROF (E-P.2) <input type="checkbox"/> OR NOI/RROF and Notice of Decision (E-P.3) <input type="checkbox"/>			
i) Correct publication category			
ii) Correct version, if floodplain			
iii) Publication date:			
iv) ROF request date:			
v) Meets 7 day comment period			
vi) Projected last day of comment period at ADOH :			
vii) Certifying Officer:			
viii) Correct and complete			
ix) List deficiencies, if any:			
10. Categorically Excluded status of project appears reasonable			

ADOH Staff: _____		Date: _____	
Contact Person: _____		Phone or Fax: _____	
Approved: <input type="checkbox"/> Yes	Contingent Upon: _____		
<input type="checkbox"/> No			
Recipient notified on (date): _____		by <input type="checkbox"/> copy of this form	
		<input type="checkbox"/> separate letter/fax	
		<input type="checkbox"/> e-mail	

Recipient: _____ Contract # _____
 Monitoring
 Date: _____ Reviewer: _____

ENVIRONMENTAL REVIEW RECORD

Categorically Excluded Projects- Desk Monitoring Form #2

Activity Name: _____

A. Public Notice: Review, Comment, and Objection Periods	Yes	No	N/A
1. Publication name:			
2. Date of NOI/RROF (E-P.2 or E-P.3):			
3. Date funds to be requested (8 day minimum from Notice):			
4. Correct Notice, if floodplain			
5. End of objections to ADOH:			
6. Certifying Officer (CTO):			
Appropriate			
7. Overall correct and complete			

B. RROF and Certifications (E-12)	Yes	No	N/A
1. Date:			
2. Same as Notice (on or about)			
3. Correct and complete/Affidavit of Publication and copy of Notice included			
4. Same CTO as in Notice			
5. Date received by ADOH Program:			

C. Release Date	Yes	No	N/A
1. One day after date noted in A.5 or 15 days after date noted in B.5, whichever is later:			
2. Prepare Authority to Use Grant Funds (E-13)			

Recipient: _____ Contract # _____
 Monitoring _____
 Date: _____ Reviewer: _____

ENVIRONMENTAL REVIEW RECORD

Environmental Assessment Projects - Desk Monitoring Form #1

Activity Name: _____

Review activity description in application forms. Check other contracts for this Recipient to see if there are other activities in the same area that should be grouped together and considered in the ERR.

If Reassessment/Re-evaluation, complete Section A. Complete Section B. for all other Environmental Assessment activities.

A. Reassessment/Re-evaluation (E-14)	Yes	No	N/A
1. Correct and complete			
2. Correct Certifying Officer			
3. a. Original ERR no more than 3 years of E-14 date			
b. Effective date of original E-13:			
c. If YES to 3.a, prepare Authority to Use Grant Funds (E-13)			

B. All Other EA Projects	Yes	No	N/A
1. Correct and complete Project Narrative (E-1)			
2. Map and/or Floodplain map, if applicable			
3. Determination Form (E-3)			
4. Level of Environmental Review (E-3.1)			
5. Statutory Checklist (E-4)			
a. Documentation column cites sources			
b. Sources are reasonable, include dates and initials			
c. Review correspondence (E-4 through E-11)			
i) All appropriate agencies contacted			
If No, list agencies that should have been contacted:			
ii) List any contingencies from agency responses:			

B. All Other EA Projects (cont'd)	Yes	No	N/A
6. Notice of Intent to Clear Land (E-8), if applicable			
7. Administrative Record (E-9), if floodplain			
a. Complete			
b. Reasonable			
8. Alternatives considered (E-11)			
9. Mitigation measures identified (E-11)			
If mitigation measures to be implemented, describe:			
10. Floodplain Notice (E-P.1) correct and complete			
a. Publication date:			
b. End of comment period:			
c. 15 days for comment period			
d. Comments:			
11. Review Draft Publication: <input type="checkbox"/> FONSI/RROF (E-P.4 – no floodplain) OR <input type="checkbox"/> FONSI/RROF/Notice of Decision (E-P.5 – floodplain/wetlands)			
a. Correct publication category			
b. Correct version, if floodplain (E-P.5)			
c. Publication date:			
d. ROF request date:			
e. Meets 15 day comment period			
f. Projected last day of comment period at ADOH :			
g. Certifying Officer:			
h. Correct and complete			
i. List deficiencies, if any:			
12. Environmental Assessment status of project appears reasonable			

ADOH Staff: _____ Date: _____

Contact Person: _____ Phone or Fax: _____

Approved: ☐ Yes Contingent Upon: _____
☐ No

Recipient notified on (date): _____ by _____

☐ copy of this form
☐ separate letter/fax
☐ e-mail

Recipient: _____ Contract # _____
 Monitoring
 Date: _____ Reviewer: _____

ENVIRONMENTAL REVIEW RECORD

Environmental Assessment Projects - Desk Monitoring Form #2

Activity Name: _____

A. Public Notice: Review, Comment, and Objection Periods	Yes	No	N/A
1. Publication name:			
2. Date of Concurrent Notice (E-P.4/5):			
3. Date funds to be requested (15 day minimum from Notice):			
4. End of Review/Comment period (15 day minimum from Notice):			
5. Correct Notice, if floodplain			
6. End of objections to ADOH:			
7. Certifying Officer: Appropriate			
8. Overall correct and complete			

B. RROF and Certifications (E-12)	Yes	No	N/A
1. Date:			
2. Same as Notice (on or about)			
3. Correct and complete			
4. Same CTO as in Notice			
5. Date received by ADOH Program:			

C. Authority to Use Grant Funds	Yes	No	N/A
1. One day after date noted in A.6 or 15 days after date noted in B.5, whichever is later:			
2. Prepare Authority to Use Grant Funds (E-13)			

Recipient: _____ Contract # _____
 Monitoring
 Date: _____ Reviewer: _____

ENVIRONMENTAL REVIEW RECORD

Housing Rehab Projects- Desk Monitoring Form #1

If Reassessment/Re-evaluation, complete Section A. Complete Section B. for all other Housing Rehab Projects.

A. If Reassessment/Re-evaluation (E-14)	Yes	No	NA
1. Correct and complete			
2. Correct Certifying Officer			
3. a. Original ERR no more than 3 years of E-14 date			
b. Effective date of original E-13:			
c. If YES to 3.a, prepare Authority to Use Grant Funds (E-13) using the effective signature date on E-14.			

B. All Other Housing Rehab Projects	Yes	No	N/A
1. Correct and complete Project Narrative (E-1)			
2. Map and/or Floodplain map			
3. Determination Form (E-3)			
4. E-HR.1			
a. <input type="checkbox"/> No Floodplain (continue and complete Section B)			
b. <input type="checkbox"/> Floodplain/Wetlands (go to Section C.)			
5. Documentation of Exemption, E-2			
6. Prepare Authority to Use Grant Funds (E-13) effective signature date on E-2.			
7. Reminder to Recipient			
1. Appendix A.			

C. If Floodplain	Yes	No	N/A
1. Administrative Record (E-9)			
a. Complete			
b. Reasonable			
Review publications			
1. Floodplain Notice (E-P.1) correct and complete			
a) Publication date:			
b) End of comment period:			
c) 15 days for comment period			
d) Comments:			
2. Draft NOI/RROF and Notice of Decision (E-P.3)			
a) Correct publication category			
b) Publication date:			
c) ROF request date:			
d) Meets 7 day comment period			
e) Projected last day of comment period at ADOH :			
f) Certifying Officer:			
g) Correct and complete			
h) List deficiencies, if any:			

ADOH Staff: _____		Date: _____	
Contact Person: _____		Phone or Fax: _____	
Approved:	<input type="checkbox"/> Yes	Contingent Upon: _____	
	<input type="checkbox"/> No		
Recipient notified on (date): _____		by _____	
		<input type="checkbox"/> copy of this form <input type="checkbox"/> separate letter/fax <input type="checkbox"/> e-mail	

Recipient: _____ Contract # _____
Monitoring
Date: _____ Reviewer: _____

ENVIRONMENTAL REVIEW RECORD

Housing Rehab Projects - Desk Monitoring Form #2

A. Public Notice: Review, Comment, and Objection Periods	Yes	No	N/A
1. Publication name:			
2. Date of NOI/RROF (E-P.2):			
3. Date funds to be requested (7 day minimum from Notice):			
4. Correct Notice, if floodplain			
5. End of objections to ADOH (15 day minimum from Notice):			
6. Certifying Officer (CTO):			
Appropriate			
7. Overall correct and complete			

B. RROF and Certifications (E-12)	Yes	No	N/A
1. Date:			
2. Same as Notice (on or about)			
3. Correct and complete/Affidavit of Publication and copy of Notice included			
4. Same CTO as in Notice			
5. Date received by ADOH Program:			

C. Authority to Use Grant Funds	Yes	No	N/A
1. One day after date noted in A.5 or 15 days after date noted in B.5, whichever is later:			
2. Prepare Authority to Use Grant Funds (E-13)			
3. Reminder to Recipient: Appendix A.			

Recipient: _____ Contract # _____
 Monitoring
 Date: _____ Reviewer: _____

ENVIRONMENTAL REVIEW RECORD

Categorically Excluded (CE) and Environmental Assessment (EA) activities only - On Site Monitoring Form

	Yes	No	Comments
1. ERR file exists for each activity			
2. For each ERR File:			
a. Notices mailed to EPA and other interested parties.			
b. Did EPA or other parties respond to Notices?			
c. Any comments from general public received as a result of the published Notices?			

Comments:

GLOSSARY

AC	Advisory Council on Historic Preservation
ADEQ	Arizona Department of Environmental Quality
ADHS	Arizona Department of Health Services
ADWR	Arizona Department of Water Resources
APE	Area of Potential Effect
ASD	Acceptable Separation Distance
APZ	Accident Potential Zone
ADOH	Title I of the Housing and Community Development Act of 1974, as amended; Community Development Block Grant Program
CE	Categorical Exclusion
COE	U.S. Army Corps of Engineers
CTO	Certifying Officer
CZ	Military airfield Clear Zone
DEQ	Department of Environmental Quality, Arizona
DHS	Department of Health Services, Arizona
DWR	Department of Water Resources, Arizona
EA	Environmental Assessment
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ERR	Environmental Review Record
FEMA	Federal Emergency Management Agency
FHBM	Flood Hazard Boundary Map
FIRM	Flood Insurance Rate Map
FONSI	Finding of No Significant Impact
HOME	The Home Investment Partnership Program
HUD	Department of Housing and Urban Development
LOMA	Letter of Map Amendment from FEMA
LOMR	Letter of Map Revision from FEMA
MOA	Memorandum of Agreement (relative to historic preservation)

NAHA	Cranston-Gonzales National Affordable Housing Act of 1990
NEPA	National Environmental Policy Act of 1969
NHPA	National Historic Preservation Act of 1966
NOI/EIS	Notice of Intent to Prepare an EIS
NOI/RROF	Notice of Intent to Request a Release of Funds
NR	National Register
RCZ	Civilian airport Runway Clear Zone
ROF	Release of Funds
RROF	Request for Release of Funds (and Certification)
SHPA	State Historic Preservation Act
SHPO	State Historic Preservation Officer
Substantial	35% or more
THPO	Tribal Historic Preservation Officer

APPLICABLE FEDERAL STATUTES

The following is a listing of the federal statutes with which the ERR is designed to comply. This listing is not all-inclusive, nor does it identify implementing regulations.

Historic Properties

The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly Section 106 (16 U.S.C. 470f).

Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly Section 2(c).

The Reservoir Salvage Act of 1960 (16 U.S.C. 469 et seq.); particularly Section 3 (16 U.S.C. 469 a-1); as amended by the Archaeological and Historic Preservation Act of 1974.

Floodplain Management and Wetland Protection

Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128)

Executive Order 11988, Floodplain Management, May 25, 1977 (42 FR 26951 et seq.); particularly Section 2(a).

Executive Order 11990, Protection of Wetlands, May 25, 1977 (42 FR 26961 et seq.); particularly Sections 2 and 5.

Sole Source Aquifers

The Safe Drinking Water Act of 1968 (42 U.S.C. 201, 300(f) et seq.), and 21 U.S.C. 349 as amended; particularly Sections 1424(e) (42 U.S.C. 300 h-300(e)).

Endangered Species

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended; particularly Section 7 (U.S.C. 1536).

Wild and Scenic Rivers

The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended; particularly Sections 7(b) and (c) (16 U.S.C. 1278 (b) and (c)).

Air Quality

The Clean Air Act (42 U.S.C. 7401 et seq.) as amended; particularly Section 176(c) and (d) (42 U.S.C. 7506(c) and (d)).

Farmlands Protection

Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) particularly Section 1540(b) and 1541 (7 U.S.C. 4201 and 4202).

HUD Environmental Standards

Environmental Criteria and Standards (24 CFR Part 51)

Environmental Justice

Executive Order 12898 - The purpose of this statute is to ensure that there is no disproportionately adverse environmental impact (mainly toxic dumps and nuclear waste facilities) on low income and minority areas due to federal projects. This is *not* included on the Statutory Checklist (E-4) for two reasons: 1) it is safe to assume that if there is no negative impact in the other areas listed, then there is no impact on Environmental Justice; and 2) there are no agencies or experts to contact to make such a determination.

AGENCIES WITH ENVIRONMENTAL JURISDICTION

Note: Contact names are no longer shown for the agencies listed. Letters may be addressed to:
Attn: Environmental Review Record Process/Clearance.

Environmental Protection Agency (EPA)

U.S. Environmental Protection Agency
Headquarters
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone: 202/272-0167

U.S. Environmental Protection Agency – Region 9
75 Hawthorne Street, CMD-2
San Francisco, CA 94105
Phone: 415/947-8000 / Fax: 415/744-1598 (Toll-free outside of California: (866) EPA-WEST)

Air Quality

Arizona Department of Environmental Quality (ADEQ)
Office of Air Quality
1110 W. Washington Street
Phoenix, AZ 85007
Phone: 602/771-2300 / Fax: 602/771-2218

Floodplain

Arizona Department of Water Resources
Flood Mitigation Section
500 N. 3rd Street
Phoenix, AZ 85004-3903
Phone: 602/417-2400 / Fax: 602/417-2401

Historic Properties and Archaeological Concerns

Arizona State Parks Department
State Historic Preservation Office (SHPO)
1300 W. Washington
Phoenix, AZ 85007
Phone: 602/542-4009 / Fax: 602/542-4188

Advisory Council on Historic Preservation
West Office of Project Review
12136 West Bayaud Avenue, Suite 330
Lakewood, CO 80228
Phone: 303/969-5110 / Fax: 303/969-5115

National Register of Historical Landmarks
U.S. Department of the Interior/NPS NRHE
1849 C Street, NW (2280)
Washington, DC 20240
Phone: 202/354-2216 / Fax: 202/371-2229

National Park Service
800 N. Capitol St. NW, Suite 250
Washington, D.C. 20001
Phone: 202/343-9536 / Fax: 202/343-1836

The Arizona State Museum
The University of Arizona
Tucson, Arizona 85721
Phone: 520/621-4795
Fax: 520/621-2976

Endangered Species

Arizona Game and Fish Department
Non-Game Branch
2221 W. Greenway Road
Phoenix, Arizona 85023
Phone: 602/942-3000

U.S. Government Department of the Interior
Fish and Wildlife Services
Ecological Services
2321 W. Royal Palm Rd., #103
Phoenix, AZ 85012-4951
Phone: 602/242-0210 / Fax: 602/242-2513

Water Quality: Central Region Gila, La Paz and most of Pinal and Mohave Counties

Arizona Department of Environmental Quality
Water Division
1110 W. Washington Street
Phoenix, AZ 85007
Phone: 602/771-2300 / Fax 602/771-2218

Water Quality: Northern Region Apache, Coconino, Navajo, Yavapai and Northern Mohave Counties

Arizona Department of Environmental Quality
Water Division, Northern Region Office
1515 E. Cedar Avenue, Suite F
Flagstaff, AZ 86004
Phone: 928/779-0313 / Fax: 928/773-2700 (Toll-free outside Flagstaff: (877) 602-3675)

**Water Quality: Southern Region
Cochise, Graham, Santa Cruz, and Yuma Counties**

Arizona Department of Environmental Quality
Water Division, Southern Region
400 W. Congress Drive, Suite 433
Tucson, AZ 85701
Phone: 520/628-6733 / Fax: 520/628-6745 (Toll-free outside Tucson: (888) 271-9302)

Wetlands

Arizona Ecological Services State Office
U.S. Fish and Wildlife Service
2321 W. Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951
Phone: 602/242-0210 / Fax: 602/242-2513

U.S. Army Corps of Engineers
Arizona Regulatory Field Office
3636 N. Central Avenue, Suite 900
Phoenix, AZ 85012-1936
Phone: 602/640-5385 / Fax: (602) 640-2020

Wild and Scenic Rivers

Prescott National Forest
344 South Cortez
Prescott, AZ 86303
Phone: 928/771-4700 / Fax: 928/771-4884

Tonto National Forest
2324 E. McDowell Road
Phoenix, AZ 85006
Phone: 602/225-5200 / Fax: 602/225-5295

National Park Service
Santa Fe Support Office
PO Box 728
Santa Fe, NM 87501-0728
Phone: 505/988-6770

Farmlands Protection

U.S.D.A. Natural Resources Conservation Service
ECS (Ecological Conservation Service)
3003 N. Central Avenue, Suite 800
Phoenix, AZ 85012-2945
Phone: 602/280-8801 / Fax: 602/280-8805

National Register of Historical Landmarks
U.S. Department of the Interior/NPS NRHE
1849 C Street, NW (2280)
Washington, D.C. 20240
Phone: 202/354-2216 / Fax: 202/371-2229 E-mail: [contact name]/@nps.gov

U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105
415/947-8000 (Toll-free outside of California: (866) EPA-WEST)
Attn: Interagency Environmental Coordinator

Arizona Department of Housing
1700 W. Washington, Suite 210
Phoenix, AZ 85007
(602) 771-1000 • FAX (602) 771-1002
www.housingaz.com





Arizona Department of Housing

Environmental Review Record (ERR) Manual

Revised September, 2004

Recipient: _____ Contract # _____
 Monitoring
 Date: _____ Reviewer: _____

ENVIRONMENTAL REVIEW RECORD

Categorically Excluded (CE) and Environmental Assessment (EA) activities only - On Site
 Monitoring Form

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Comments:

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U.S. Environmental Protection Agency
Headquarters
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone: 202/272-0167

U.S. Environmental Protection Agency – Region 9
75 Hawthorne Street, CMD-2
San Francisco, CA 94105
Phone: 415/947-8000 / Fax: 415/744-1598 (Toll-free outside of California: (866) EPA-WEST)

Air Quality

Arizona Department of Environmental Quality (ADEQ)
Office of Air Quality
1110 W. Washington Street
Phoenix, AZ 85007
Phone: 602/771-2300 / Fax: 602/771-2218

Floodplain

Arizona Department of Water Resources
Flood Mitigation Section
500 N. 3rd Street
Phoenix, AZ 85004-3903
Phone: 602/417-2400 / Fax: 602/417-2401

Historic Properties and Archaeological Concerns

Arizona State Parks Department
State Historic Preservation Office (SHPO)
1300 W. Washington
Phoenix, AZ 85007
Phone: 602/542-4009 / Fax: 602/542-4188

Advisory Council on Historic Preservation
West Office of Project Review
12136 West Bayaud Avenue, Suite 330
Lakewood, CO 80228
Phone: 303/969-5110 / Fax: 303/969-5115

National Register of Historical Landmarks
U.S. Department of the Interior/NPS NRHE
1849 C Street, NW (2280)
Washington, DC 20240
Phone: 202/354-2216 / Fax: 202/371-2229

National Park Service
800 N. Capitol St. NW, Suite 250
Washington, D.C. 20001
Phone: 202/343-9536 / Fax: 202/343-1836

The Arizona State Museum
The University of Arizona
Tucson, Arizona 85721
Phone: 520/621-4795
Fax: 520/621-2976

Endangered Species

Arizona Game and Fish Department
Non-Game Branch
2221 W. Greenway Road
Phoenix, Arizona 85023
Phone: 602/942-3000

U.S. Government Department of the Interior
Fish and Wildlife Services
Ecological Services
2321 W. Royal Palm Rd., #103
Phoenix, AZ 85012-4951
Phone: 602/242-0210 / Fax: 602/242-2513

Water Quality: Central Region Gila, La Paz and most of Pinal and Mohave Counties

Arizona Department of Environmental Quality
Water Division
1110 W. Washington Street
Phoenix, AZ 85007
Phone: 602/771-2300 / Fax 602/771-2218

Water Quality: Northern Region Apache, Coconino, Navajo, Yavapai and Northern Mohave Counties

Arizona Department of Environmental Quality
Water Division, Northern Region Office
1515 E. Cedar Avenue, Suite F
Flagstaff, AZ 86004
Phone: 928/779-0313 / Fax: 928/773-2700 (Toll-free outside Flagstaff: (877) 602-3675)

**Water Quality: Southern Region
Cochise, Graham, Santa Cruz, and Yuma Counties**

Arizona Department of Environmental Quality
Water Division, Southern Region
400 W. Congress Drive, Suite 433
Tucson, AZ 85701
Phone: 520/628-6733 / Fax: 520/628-6745 (Toll-free outside Tucson: (888) 271-9302)

Wetlands

Arizona Ecological Services State Office
U.S. Fish and Wildlife Service
2321 W. Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951
Phone: 602/242-0210 / Fax: 602/242-2513

U.S. Army Corps of Engineers
Arizona Regulatory Field Office
3636 N. Central Avenue, Suite 900
Phoenix, AZ 85012-1936
Phone: 602/640-5385 / Fax: (602) 640-2020

Wild and Scenic Rivers

Prescott National Forest
344 South Cortez
Prescott, AZ 86303
Phone: 928/771-4700 / Fax: 928/771-4884

Tonto National Forest
2324 E. McDowell Road
Phoenix, AZ 85006
Phone: 602/225-5200 / Fax: 602/225-5295

National Park Service
Santa Fe Support Office
PO Box 728
Santa Fe, NM 87501-0728
Phone: 505/988-6770

Farmlands Protection

U.S.D.A. Natural Resources Conservation Service
ECS (Ecological Conservation Service)
3003 N. Central Avenue, Suite 800
Phoenix, AZ 85012-2945
Phone: 602/280-8801 / Fax: 602/280-8805

National Register of Historical Landmarks
U.S. Department of the Interior/NPS NRHE
1849 C Street, NW (2280)
Washington, D.C. 20240
Phone: 202/354-2216 / Fax: 202/371-2229 E-mail: [contact name]/@nps.gov

U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105
415/947-8000 (Toll-free outside of California: (866) EPA-WEST)
Attn: Interagency Environmental Coordinator

U. S. Department of Housing and Urban Development

24 CFR PART 58

**ENVIRONMENTAL REVIEW PROCEDURES FOR
ENTITIES
ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES**

October 29, 2003

This is a compilation of the Final Rule published September 29, 2003 (effective October 29, 2003) which revised the Final Rule published April 30, 1996 (effective May 30, 1996) and the Technical Amendments published March 30, 1998 (effective April 29, 1998.) The compilation was prepared by the HUD Massachusetts State Office environmental staff. Changes are highlighted by shading.

PART 58 - ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES

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Authority: 12 U.S.C. 1707 note, 1715z-13a(k); 25 U.S.C. 4115 and 4226; 42 U.S.C. 1437x, 3535(d), 3547, 4332, 4852, 5304(g), 11402, 12838, and 12905(h); title II of Pub. L. 105-276; E.O. 11514 as amended by E.O. 11991, 3 CFR 1977 Comp., p. 123.

Subpart A--Purpose, Legal Authority, Federal Laws and Authorities

Sec. 58.1 Purpose and applicability.

(a) Purpose. This part provides instructions and guidance to recipients of HUD assistance and other

responsible entities for conducting an environmental review for a particular project or activity and for obtaining approval of a Request for Release of Funds.

(b) Applicability. This part applies to activities and projects where specific statutory authority exists for recipients or other responsible entities to assume environmental responsibilities. Programs and activities subject to this part include:

(1) Community Development Block Grant programs authorized by Title I of the Housing and Community Development Act of 1974, in accordance with section 104(g) (42 U.S.C. 5304(g));

(2) [Reserved]

(3)(i) Grants to states and units of general local government under the Emergency Shelter Grant program, Supportive Housing Program (and its predecessors, the Supportive Housing Demonstration Program (both Transitional Housing and Permanent Housing for Homeless Persons with Disabilities) and Supplemental Assistance for Facilities to Assist the Homeless), Shelter Plus Care Program, Safe Havens for Homeless Individuals Demonstration Program, and Rural Homeless Housing Assistance, authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);

(ii) Grants beginning with Fiscal Year 2001 to private non-profit organizations and housing agencies under the Supportive Housing Program and Shelter Plus Care Program authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);

(4) The HOME Investment Partnerships Program authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), in accordance with section 288 (42 U.S.C. 12838);

(5) Grants to States and units of general local government for abatement of lead-based paint and lead dust hazards pursuant to Title II of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1992, and grants for lead-based paint hazard reduction under section 1011 of the Housing and Community Development Act of 1992, in accordance with section 1011(o) (42 U.S.C. 4852(o));

(6)(i) Public Housing Programs under Title I of the United States Housing Act of 1937, including HOPE VI grants authorized under section 24 of the Act for Fiscal Year 2000 and later, in accordance with section 26 (42 U.S.C. 1437x);

(ii) Grants for the revitalization of severely distressed public housing (HOPE VI) for Fiscal Year 1999 and prior years, in accordance with Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved October 21, 1998); and

(iii) Assistance administered by a public housing agency under section 8 of the United States Housing Act of 1937, except for assistance provided under part 886 of this title, in accordance with section 26 (42 U.S.C. 1437x);

(7) Special Projects appropriated under an appropriation act for HUD, such as special projects under the heading "Annual Contributions for Assisted Housing" in Title II of various Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts, in accordance with section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547);

(8) The FHA Multifamily Housing Finance Agency Pilot Program under section 542(c) of the Housing and Community Development Act of 1992, in accordance with section 542(c)(9)(12 U.S.C. 1707 note);

(9) The Self-Help Homeownership Opportunity Program under section 11 of the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120, 110 Stat. 834), in accordance with section 11(m)); American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), in accordance with:

(10) Assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), in accordance with:

(i) Section 105 for Indian Housing Block Grants and Federal Guarantees or Financing for Tribal Housing Authorities (25 U.S.C. 4115 and 4226); and

(ii) Section 806 for Native Hawaiian Housing Block Grants (25 U.S.C. 4226);

(11) Indian Housing Loan Guarantees authorized by section 184 of the Housing and Community Development Act of 1992, in accordance with section 184(k) (12 U.S.C. 1715z-13a(k)); and

(12) Grants for Housing Opportunities for Persons with AIDS (HOPWA) under the AIDS Housing Opportunity Act, as follows: competitive grants beginning with Fiscal Year 2001 and all formula grants, in accordance with section 856(h) (42 U.S.C. 12905(h)); all grants for Fiscal Year 1999 and prior years, in accordance with section 207(c) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved October 21, 1998).

(c) When HUD assistance is used to help fund a revolving loan fund that is administered by a recipient or another party, the activities initially receiving assistance from the fund are subject to the requirements in this part. Future activities receiving assistance from the revolving loan fund, after the fund has received loan repayments, are subject to the environmental review requirements if the rules of the

HUD program that initially provided assistance to the fund continue to treat the activities as subject to the Federal requirements. If the HUD program treats the activities as not being subject to any Federal requirements, then the activities cease to become Federally-funded activities and the provisions of this part do not apply.

(d) To the extent permitted by applicable laws and the applicable regulations of the Council on Environmental Quality, the Assistant Secretary for Community Planning and Development may, for good cause and with appropriate conditions, approve waivers and exceptions or establish criteria for exceptions from the requirements of this part.

Sec. 58.2 Terms, abbreviations and definitions.

(a) For the purposes of this part, the following definitions supplement the uniform terminology provided in 40 CFR part 1508:

(1) *Activity* means an action that a grantee or recipient puts forth as part of an assisted project, regardless of whether its cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program.

(2) *Certifying Officer* means the official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to carry out the responsibilities of Sec. 58.13.

(3) *Extraordinary Circumstances* means a situation in which an environmental assessment (EA) or environmental impact statement (EIS) is not normally required, but due to unusual conditions, an EA or EIS is appropriate. Indicators of unusual conditions are:

- (i) Actions that are unique or without precedent;
- (ii) Actions that are substantially similar to those that normally require an EIS;
- (iii) Actions that are likely to alter existing HUD policy or HUD mandates; or
- (iv) Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.

(4) *Project* means an activity, or a group of integrally related activities, designed by the recipient to accomplish, in whole or in part, a specific objective.

(5) *Recipient* means any of the following entities, when they are eligible recipients or grantees under a program listed in Sec. 58.1(b):

- (i) A State that does not distribute HUD assistance under the program to a unit of general local government;
- (ii) Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, and Palau;
- (iii) A unit of general local government;
- (iv) An Indian tribe;
- (v) With respect to Public Housing Programs under Sec. 58.1(b)(6)(i), fiscal year 1999 and prior HOPE VI

grants under Sec. 58.1(b)(6)(ii) or Section 8 assistance under Sec. 58.1(b)(6)(iii), a public housing agency;

(B) With respect to Indian Housing Programs under Sec. 58.1(b)(6)(ii), an Indian housing authority;

(C) With respect to section 8 assistance under Sec. 58.1(b)(6)(iii), a public housing agency or Indian housing authority;

(vi) Any direct grantee of HUD for a special project under Sec. 58.1(b)(7);

(vii) With respect to the FHA Multifamily Housing Finance Agency Program under 58.1(b)(8), a qualified housing finance agency;

(viii) With respect to the Self-Help Homeownership Opportunity Program under Sec. 58.1(b)(9), any direct grantee of HUD.

(ix)(A) With respect to NAHASDA assistance under Sec. 58.1(b)(10), the Indian tribe or the Department of Hawaiian Home Lands; and

(B) With respect to the Section 184 Indian Housing Loan Guarantee program under Sec. 58.1(b)(11), the Indian tribe.

(x) With respect to the Shelter Plus Care and Supportive Housing Programs under Sec. 58.1(b)(3)(ii), nonprofit organizations and other entities.

(6) Release of funds. In the case of the FHA Multifamily Housing Finance Agency Program under Sec. 58.1(b)(8), Release of Funds, as used in this part, refers to HUD issuance of a firm approval letter, and Request for Release of Funds refers to a recipient's request for a firm approval letter. In the case of the Section 184 Indian Housing Loan Guarantee program under Sec. 58.1(b)(11), Release of Funds refers to HUD's issuance of a commitment to guarantee a loan, or if there is no commitment, HUD's issuance of a certificate of guarantee.

(7) Responsible Entity. Responsible Entity means:

(i) With respect to environmental responsibilities under programs listed in Sec. 58.1(b)(1), (2), (3)(i), (4), and (5), a recipient under the program.

(ii) With respect to environmental responsibilities under the programs listed in Sec. 58.1(b)(3)(ii) and (6) through (12), a state, unit of general local government, Indian tribe or Alaska Native Village, or the Department of Hawaiian Home Lands, when it is the recipient under the program. Under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) listed in Sec. 58.1(b)(10)(i), the Indian tribe is the responsible entity whether or not a Tribally Designated Housing Entity is authorized to receive grant amounts on behalf of the tribe. The Indian tribe is also the responsible entity under the Section 184 Indian Housing Loan Guarantee program listed in Sec. 58.1(b)(11). Regional Corporations in Alaska are considered Indian tribes in

this part. Non-recipient responsible entities are designated as follows:

(A) For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;

(B) For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(C) For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(8) *Unit Density* refers to a change in the number of dwelling units. Where a threshold is identified as a percentage change in density that triggers review requirements, no distinction is made between an increase or a decrease in density.

(9) *Tiering* means the evaluation of an action or an activity at various points in the development process as a proposal or event becomes ripe for an Environment Assessment or Review.

(10) *Vacant Building* means a habitable structure that has been vacant for more than one year.

(b) The following abbreviations are used throughout this part:

- (1) CDBG--Community Development Block Grant;
- (2) CEQ--Council on Environmental Quality;
- (3) EA--Environmental Assessment;
- (4) EIS--Environmental Impact Statement;
- (5) EPA--Environmental Protection Agency;
- (6) ERR--Environmental Review Record;
- (7) FONSI--Finding of No Significant Impact;
- (8) HUD--Department of Housing and Urban Development;
- (9) NAHA--Cranston-Gonzalez National Affordable Housing Act of 1990;
- (10) NEPA--National Environmental Policy Act of 1969, as amended;
- (11) NOI/EIS--Notice of Intent to Prepare an EIS;
- (12) NOI/RROF--Notice of Intent to Request Release of Funds;
- (13) ROD--Record of Decision;
- (14) ROF--Release of Funds; and
- (15) RROF--Request for Release of Funds.

Sec. 58.4 Assumption authority.

(a) Assumption authority for responsible entities: General.

Responsible entities shall assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and

other provisions of law that further the purposes of NEPA, as specified in Sec. 58.5. Responsible entities that receive assistance directly from HUD assume these responsibilities by execution of a grant agreement with HUD and/or a legally binding document such as the certification contained on HUD Form 7015.15, certifying to the assumption of environmental responsibilities. When a State distributes funds to a responsible entity, the State must provide for appropriate procedures by which these responsible entities will evidence their assumption of environmental responsibilities.

(b) Particular responsibilities of the States. (1) States are recipients for purposes of directly undertaking a State project and must assume the environmental review responsibilities for the State's activities and those of any non-governmental entity that may participate in the project. In this case, the State must submit the certification and RROF to HUD for approval.

(2) States must exercise HUD's responsibilities in accordance with Sec. 58.18, with respect to approval of a unit of local government's environmental certification and RROF for a HUD assisted project funded through the state. Approval by the state of a unit of local government's certification and RROF satisfies the Secretary's responsibilities under NEPA and the related laws cited in Sec. 58.5.

(c) Particular responsibilities of Indian tribes. An Indian tribe may, but is not required to, assume responsibilities for environmental review, decision-making and action for programs authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (other than title VIII) or section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a). The tribe must make a separate decision regarding assumption of responsibilities for each of these Acts and communicate that decision in writing to HUD. If the tribe assumes these responsibilities, the requirements of this part shall apply. If a tribe formally declines assumption of these responsibilities, they are retained by HUD and the provisions of part 50 of this title apply.

Sec. 58.5 Related Federal laws and authorities.

In accordance with the provisions of law cited in Sec. 58.1(b), the responsible entity must assume responsibilities for environmental review, decision-making and action that would apply to HUD under the following specified laws and authorities. The responsible entity must certify that it has complied with the requirements that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies and

regulations of these laws and authorities.

(a) *Historic properties.* (1) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2).

(2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 CFR 1971-1975 Comp., p. 559, particularly section 2(c).

(3) Federal historic preservation regulations as follows:

(i) 36 CFR part 800 with respect to HUD programs other than Urban Development Action Grants (UDAG); and

(ii) 36 CFR part 801 with respect to UDAG.

(4) The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.), particularly section 3 (16 U.S.C. 469a-1).

(b) *Floodplain management and wetland protection.* (1) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 CFR part 55, particularly section 2(a) of the order (For an explanation of the relationship between the decision-making process in 24 CFR part 55 and this part, see Sec. 55.10 of this subtitle A.)

(2) Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 CFR, 1977 Comp., p. 121, particularly sections 2 and 5.

(c) *Coastal Zone Management.* The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), as amended, particularly section 307(c) and (d) (16 U.S.C. 1456(c) and (d)).

(d) *Sole source aquifers.* (1) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 U.S.C. 300h-3(e)).

(2) Sole Source Aquifers (Environmental Protection Agency--40 CFR part 149).

(e) *Endangered species.* The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended, particularly section 7 (16 U.S.C. 1536).

(f) *Wild and scenic rivers.* The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended, particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c)).

(g) *Air quality.* (1) The Clean Air Act (42 U.S.C. 7401 et seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)).

(2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency-- 40 CFR parts 6, 51, and 93).

(h) *Farmlands protection.* (1) Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202).

(2) Farmland Protection Policy (Department of Agriculture--7 CFR part 658).

(i) *HUD environmental standards.* (1) Applicable criteria and standards specified in part 51 of this title, other than the runway clear zone notification requirement in Sec. 51.303(a)(3).

(2)(i) Also, it is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.

(ii) The environmental review of multifamily housing with five or more dwelling units (including leasing), or non-residential property, must include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by any of the hazards listed in paragraph (i)(2)(i) of this section.

(iii) Particular attention should be given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes.

(iv) The responsible entity shall use current techniques by qualified professionals to undertake investigations determined necessary.

(j) *Environmental justice.* Executive Order 12898--Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629), 3 CFR, 1994 Comp. p. 859.

Sec. 58.6 Other requirements.

In addition to the duties under the laws and authorities specified in Sec. 58.5 for assumption by the responsible entity under the laws cited in Sec. 58.1(b), the responsible entity must comply with the following requirements. Applicability of the following requirements does not trigger the certification and release of funds procedure under this part or preclude exemption of an activity under Sec. 58.34(a)(12) and/or the applicability of Sec. 58.35(b). However, the responsible entity remains responsible for addressing the following requirements in its ERR and meeting these requirements, where applicable, regardless of whether the activity is exempt under Sec. 58.34 or categorically excluded under Sec. 58.35(a) or (b).

(a)(1) Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(i) The community in which the area is situated is

participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since the FEMA notification regarding such hazards; and

(ii) Where the community is participating in the National Flood Insurance Program, flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.

(2) Where the community is participating in the National Flood Insurance Program and the recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, the responsible entity is responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

(3) Paragraph (a) of this section does not apply to Federal formula grants made to a State.

(b) Under Section 582 of the National Flood Insurance Reform Act of 1994, 42 U.S.C. 5154a, HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if:

(1) The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and

(2) The person failed to obtain and maintain the flood insurance.

(c) Pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501), HUD assistance may not be used for most activities proposed in the Coastal Barrier Resources System.

(d) In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone, as defined in 24 CFR part 51, the responsible entity shall advise the buyer that the property is in a runway clear zone or clear zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.

Subpart B--General Policy: Responsibilities of Responsible Entities

Sec. 58.10 Basic environmental responsibility.

In accordance with the provisions of law cited in Sec. 58.1(b), except as otherwise provided in Sec. 58.4(c), the responsible entity must assume the environmental responsibilities for projects under

programs cited in Sec. 58.1(b). In doing so, the responsible entity must comply with the provisions of NEPA and the CEQ regulations contained in 40 CFR parts 1500 through 1508, including the requirements set forth in this part.

Sec. 58.11 Legal capacity and performance.

(a) A responsible entity which believes that it does not have the legal capacity to carry out the environmental responsibilities required by this part must contact the appropriate local HUD Office or the State for further instructions. Determinations of legal capacity will be made on a case-by-case basis.

(b) If a public housing, special project, HOPWA, Supportive Housing, Shelter Plus Care, or Self-Help Homeownership Opportunity recipient that is not a responsible entity objects to the non-recipient responsible entity conducting the environmental review on the basis of performance, timing, or compatibility of objectives, HUD will review the facts to determine who will perform the environmental review.

(c) At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing or compatibility of objectives, or in accordance with Sec. 58.77(d)(1).

(d) If a responsible entity, other than a recipient, objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review in accordance with this part or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50.

Sec. 58.12 Technical and administrative capacity

The responsible entity must develop the technical and administrative capability necessary to comply with 40 CFR parts 1500 through 1508 and the requirements of this part.

Sec. 58.13 Responsibilities of the certifying officer

Under the terms of the certification required by Sec. 58.71, a responsible entity's certifying officer is the "responsible Federal official" as that term is used in section 102 of NEPA and in statutory provisions cited in Sec. 58.1(b). The Certifying Officer is therefore responsible for all the requirements of section 102 of NEPA and the related provisions in 40 CFR parts 1500 through 1508, and 24 CFR part 58, including the related Federal authorities listed in Sec. 58.5. The Certifying Officer must also:

(a) Represent the responsible entity and be subject to the jurisdiction of the Federal courts. The Certifying Officer will not be represented by the Department of Justice in court; and

(b) Ensure that the responsible entity reviews and comments on all EISs prepared for Federal projects that may have an impact on the recipient's program.

Sec. 58.14 Interaction with State, Federal and non-Federal entities

A responsible entity shall consult with appropriate environmental agencies, State, Federal and non-Federal entities and the public in the preparation of an EIS, EA or other environmental reviews undertaken under the related laws and authorities cited in Sec. 58.5 and Sec. 58.6. The responsible entity must also cooperate with other agencies to reduce duplication between NEPA and comparable environmental review requirements of the State (see 40 CFR 1506.2(b) and (c)). The responsible entity must prepare its EAs and EISs so that they comply with the environmental review requirements of both Federal and State laws unless otherwise specified or provided by law. State, Federal and local agencies may participate or act in a joint lead or cooperating agency capacity in the preparation of joint EISs (see 40 CFR 1501.5(b) and 1501.6). A single EIS or EA may be prepared and adopted by multiple users to the extent that the review addresses the relevant environmental issues and there is a written agreement between the cooperating agencies which sets forth the coordinated and overall responsibilities.

Sec. 58.15 Tiering.

Responsible entities may tier their environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review. Tiering is appropriate when there is a requirement to evaluate a policy or proposal in the early stages of development or when site-specific analysis or mitigation is not currently feasible and a more narrow or focused analysis is better done at a later date. The site specific review need only reference or summarize the issues addressed in the broader review. The broader review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review should also establish the policy, standard or process to be followed in the site specific review. The Finding of No Significant Impact (FONSI) with respect to the broader assessment shall include a summary of the assessment and identify the significant issues to be considered in site specific reviews. Subsequent site-specific reviews will not require notices or a Request for Release of Funds unless the Certifying Officer determines that there are unanticipated impacts or impacts not adequately addressed in the prior review. A tiering approach can be used for meeting environmental review requirements in areas designated for special focus in local Consolidated Plans. Local and State Governments are encouraged

to use the Consolidated Plan process to facilitate environmental reviews.

Sec. 58.17 [Removed]

Sec. 58.18 Responsibilities of States assuming HUD environmental responsibilities.

States that elect to administer a HUD program shall ensure that the program complies with the provisions of this part. The state must:

(a) Designate the state agency or agencies that will be responsible for carrying out the requirements and administrative responsibilities set forth in subpart H of this part and which will:

(1) Develop a monitoring and enforcement program for post-review actions on environmental reviews and monitor compliance with any environmental conditions included in the award.

(2) Receive public notices, RROFs, and certifications from recipients pursuant to Sec. Sec. 58.70 and 58.71; accept objections from the public and from other agencies (Sec. 58.73); and perform other related responsibilities regarding releases of funds.

(b) Fulfill the state role in subpart H relative to the time period set for the receipt and disposition of comments, objections and appeals (if any) on particular projects.

Subpart C--General Policy: Environmental Review Procedures

Sec. 58.21 Time periods.

All time periods in this part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time on the day following the publication or the mailing and posting date of the notice which initiates the time period.

Sec. 58.22 Limitations on activities pending clearance.

(a) Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in Sec. 58.1(b) on an activity or project until HUD or the state has approved the recipient's RROF and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in Sec. 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

(b) If a project or activity is exempt under Sec. 58.34, or is categorically excluded (except in extraordinary circumstances) under Sec. 58.35(b), no RROF is required and the recipient may undertake the activity immediately after the responsible entity has documented its determination as required in Sec. 58.34(b) and Sec. 58.35(d), but the recipient must comply with applicable requirements under Sec. 58.6.

(c) If a recipient is considering an application from a prospective subrecipient or beneficiary and is aware that the prospective subrecipient or beneficiary is about to take an action within the jurisdiction of the recipient that is prohibited by paragraph (a) of this section, then the recipient will take appropriate action to ensure that the objectives and procedures of NEPA are achieved.

(d) An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with this part and the cost of the option is a nominal portion of the purchase price. There is no constraint on the purchase of an option by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.

(e) Self-Help Homeownership Opportunity Program (SHOP). In accordance with section 11(d)(2)(A) of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note), an organization, consortium, or affiliate receiving assistance under the SHOP program may advance nongrant funds to acquire land prior to completion of an environmental review and approval of a Request for Release of Funds (RROF) and certification, notwithstanding paragraph (a) of this section. Any advances to acquire land prior to approval of the RROF and certification are made at the risk of the organization, consortium, or affiliate and reimbursement for such advances may depend on the result of the environmental review. This authorization is limited to the SHOP program only and all other forms of HUD assistance are subject to the limitations in paragraph (a) of this section.

(f) Relocation. Funds may be committed for relocation assistance before the approval of the RROF and related certification for the project provided that the relocation assistance is required by 24 CFR part 42.

Sec. 58.23 Financial assistance for environmental review.

The costs of environmental reviews, including costs incurred in complying with any of the related laws and authorities cited in Sec. 58.5 and Sec. 58.6, are eligible costs to the extent allowable under the HUD assistance program regulations.

Subpart D--Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

Sec. 58.30 Environmental Review Process.

(a) The environmental review process consists of all the actions that a responsible entity must take to determine compliance with this part. The environmental review process includes all the compliance actions needed for other activities and projects that are not assisted by HUD but are aggregated by the responsible entity in accordance with Sec. 58.32.

(b) The environmental review process should begin as soon as a recipient determines the projected use of HUD assistance.

Sec. 58.32 Project aggregation

(a) A responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions.

(b) In deciding the most appropriate basis for aggregation when evaluating activities under more than one program, the responsible entity may choose: functional aggregation when a specific type of activity (e.g., water improvements) is to take place in several separate locales or jurisdictions; geographic aggregation when a mix of dissimilar but related activities is to be concentrated in a fairly specific project area (e.g., a combination of water, sewer and street improvements and economic development activities); or a combination of aggregation approaches, which, for various project locations, considers the impacts arising from each functional activity and its interrelationship with other activities.

(c) The purpose of project aggregation is to group together related activities so that the responsible entity can:

(1) Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other activities and actions. (See 40 CFR 1508.25(a)).

(2) Consider reasonable alternative courses of action.

(3) Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects.

(4) Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.

(d) Multi-year project aggregation. (1) Release of funds. When a recipient's planning and program development provide for activities to be implemented over two or more years, the responsible entity's environmental review should consider the relationship among all component activities of the multi-year project regardless of the source of funds and address and evaluate their cumulative environmental effects. The estimated range of the aggregated activities and the estimated cost of the total project must be listed and described by the responsible entity in the environmental review and included in the RROF. The release of funds will cover the entire project period.

(2) When one or more of the conditions described in Sec. 58.47 exists, the recipient or other responsible entity must re-evaluate the environmental review.

Sec. 58.33 Emergencies

(a) In the cases of emergency, disaster or imminent threat to health and safety which warrant the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 shall apply.

(b) If funds are needed on an emergency basis and adherence to separate comment periods would prevent the giving of assistance during a Presidentially declared disaster, or during a local emergency that has been declared by the chief elected official of the responsible entity who has proclaimed that there is an immediate need for public action to protect the public safety, the combined Notice of FONSI and Notice of Intent to Request Release of Funds (NOI/RROF) may be disseminated and/or published simultaneously with the submission of the RROF. The combined Notice of FONSI and NOI/RROF shall state that the funds are needed on an emergency basis due to a declared disaster and that the comment periods have been combined. The Notice shall also invite commenters to submit their comments to both HUD and the responsible entity issuing the notice to ensure that these comments will receive full consideration.

Sec. 58.34 Exempt activities.

(a) Except for the applicable requirements of Sec. 58.6, the responsible entity does not have to comply with the requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in Sec. 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:

(1) Environmental and other studies, resource

identification and the development of plans and strategies;

(2) Information and financial services;

(3) Administrative and management activities;

(4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;

(5) Inspections and testing of properties for hazards or defects;

(6) Purchase of insurance;

(7) Purchase of tools;

(8) Engineering or design costs;

(9) Technical assistance and training;

(10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;

(11) Payment of principal and interest on loans made or obligations guaranteed by HUD;

(12) Any of the categorical exclusions listed in Sec. 58.35(a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in Sec. 58.5.

(b) A recipient does not have to submit an RROF and certification, and no further approval from HUD or the State will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must document in writing its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section.

Sec. 58.35 Categorical exclusions.

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see Sec. 58.2(a)(3)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in Sec. 58.5 is required for any categorical exclusion listed in paragraph (a) of this section.

(a) Categorical exclusions subject to Sec. 58.5. The following activities are categorically excluded under NEPA, but may be subject to review under authorities listed in Sec. 58.5:

(1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or

capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

(2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.

(3) Rehabilitation of buildings and improvements when the following conditions are met:

(i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;

(ii) In the case of multifamily residential buildings:

(A) Unit density is not changed more than 20 percent;

(B) The project does not involve changes in land use from residential to non-residential; and

(C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

(iii) In the case of non-residential structures, including commercial, industrial, and public buildings:

(A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and

(B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

(4)(i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or

(ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.

(iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).

(5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

(6) Combinations of the above activities.

(b) Categorical exclusions not subject to Sec. 58.5. The Department has determined that the following categorically excluded activities would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in Sec. 58.5. When the following kinds of activities are undertaken, the responsible entity does

not have to publish a NOI/RROF or execute a certification and the recipient does not have to submit a RROF to HUD (or the State) except in the circumstances described in paragraph (c) of this section. Following the award of the assistance, no further approval from HUD or the State will be needed with respect to environmental requirements, except where paragraph (c) of this section applies. The recipient remains responsible for carrying out any applicable requirements under Sec. 58.6.

(1) Tenant-based rental assistance;

(2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;

(3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;

(4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;

(5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title.

(6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

(7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under Sec. 58.47.

(c) Circumstances requiring NEPA review. If a responsible entity determines that an activity or project identified in paragraph (a) or (b) of this section, because of extraordinary circumstances and conditions at or affecting the location of the activity or project, may have a significant environmental effect, it shall comply with all the requirements of this part.

(d) The Environmental Review Record (ERR) must contain a well organized written record of the process and determinations made under this section.

Sec. 58.36 Environmental assessments.

If a project is not exempt or categorically excluded

under Secs. 58.34 and 58.35, the responsible entity must prepare an EA in accordance with subpart E of this part. If it is evident without preparing an EA that an EIS is required under Sec. 58.37, the responsible entity should proceed directly to an EIS.

Sec. 58.37 Environmental impact statement determinations.

(a) An EIS is required when the project is determined to have a potentially significant impact on the human environment.

(b) An EIS is required under any of the following circumstances, except as provided in paragraph (c) of this section:

(1) The project would provide a site or sites for, or result in the construction of, hospitals or nursing homes containing a total of 2,500 or more beds.

(2) The project would remove, demolish, convert or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under Sec. 58.35), or would result in the construction or installation of 2,500 or more housing units, or would provide sites for 2,500 or more housing units.

(3) The project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units. The project does not have to be specifically intended for residential use nor does it have to be totally new construction. If the project is designed to provide upgraded service to existing development as well as to serve new development, only that portion of the increased capacity which is intended to serve new development should be counted.

(c) If, on the basis of an EA, a responsible entity determines that the thresholds in paragraph (b) of this section are the sole reason for the EIS, the responsible entity may prepare a FONSI pursuant to 40 CFR 1501.4. In such cases, the FONSI must be made available for public review for at least 30 days before the responsible entity makes the final determination whether to prepare an EIS.

(d) Notwithstanding paragraphs (a) through (c) of this section, an EIS is not required where Sec. 58.53 is applicable.

(e) Recommended EIS Format. The responsible entity must use the EIS format recommended by the CEQ regulations (40 CFR 1502.10) unless a determination is made on a particular project that there is a compelling reason to do otherwise. In such a case, the EIS format must meet the minimum requirements prescribed in 40 CFR 1502.10.

Sec. 58.38 Environmental review record.

The responsible entity must maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the "Environmental Review Record" (ERR), and shall be available for public review. The responsible entity must use the current

HUD-recommended formats or develop equivalent formats.

(a) ERR Documents. The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decisionmaking and actions pertaining to a particular project of a recipient. The document shall:

(1) Describe the project and the activities that the recipient has determined to be part of the project;

(2) Evaluate the effects of the project or the activities on the human environment;

(3) Document compliance with applicable statutes and authorities, in particular those cited in Sec. 58.5 and 58.6; and

(4) Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).

(b) Other documents and information. The ERR shall also contain verifiable source documents and relevant base data used or cited in EAs, EISs or other project review documents. These documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and special studies prepared for the recipient that are not otherwise generally available for public review shall not be incorporated by reference but shall be included in the ERR.

Subpart E--Environmental Review Process: Environmental Assessments (EA's)

Sec. 58.40 Preparing the environmental assessment

The responsible entity may prepare the EA using the HUD recommended format. In preparing an EA for a particular project, the responsible entity must:

(a) Determine existing conditions and describe the character, features and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the project.

(b) Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.

(c) Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance under related laws and authorities cited in Sec. 58.5 and Sec. 58.6.

(d) Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.

(e) Examine alternatives to the project itself, if appropriate, including the alternative of no action.

(f) Complete all environmental review requirements necessary for the project's compliance with applicable authorities cited in Secs. 58.5 and 58.6.

(g) Based on steps set forth in paragraph (a) through (f) of this section, make one of the following findings:

(1) A Finding of No Significant Impact (FONSI), in which the responsible entity determines that the project is not an action that will result in a significant impact on the quality of the human environment. The responsible entity may then proceed to Sec. 58.43.

(2) A finding of significant impact, in which the project is deemed to be an action which may significantly affect the quality of the human environment. The responsible entity must then proceed with its environmental review under subpart F or G of this part.

Sec. 58.43 Dissemination and/or publication of the findings of no significant impact.

(a) If the responsible entity makes a finding of no significant impact, it must prepare a FONSI notice, using the current HUD-recommended format or an equivalent format. As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office (or the State where applicable). The responsible entity may also publish the FONSI notice in a newspaper of general circulation in the affected community. If the notice is not published, it must also be prominently displayed in public buildings, such as the local Post Office and within the project area or in accordance with procedures established as part of the citizen participation process.

(b) The responsible entity may disseminate or publish a FONSI notice at the same time it disseminates or publishes the NOI/RROF required by Sec. 58.70. If the notices are released as a combined notice, the combined notice shall:

(1) Clearly indicate that it is intended to meet two separate procedural requirements; and

(2) Advise the public to specify in their comments which "notice" their comments address.

(c) The responsible entity must consider the comments and make modifications, if appropriate, in response to the comments, before it completes its environmental certification and before the recipient submits its RROF. If funds will be used in Presidentially declared disaster areas, modifications resulting from public comment, if appropriate, must be made before proceeding with the expenditure of funds.

Sec. 58.45 Public comment periods

Required notices must afford the public the following minimum comment periods, counted in accordance with Sec. 58.21:

(a) Notice of Finding of No Significant Impact (FONSI) 15 days when published or, if no publication, 18 days when mailing and posting

(b) Notice of Intent to Request Release of Funds (NOI-RROF) 7 days when published or, if no publication, 10 days when mailing and posting

(c) Concurrent or combined notices 15 days when published or, if no publication, 18 days when mailing and posting

Sec. 58.46 Time delays for exceptional circumstances.

The responsible entity must make the FONSI available for public comments for 30 days before the recipient files the RROF when:

(a) There is a considerable interest or controversy concerning the project;

(b) The proposed project is similar to other projects that normally require the preparation of an EIS; or

(c) The project is unique and without precedent.

Sec. 58.47 Re-evaluation of environmental assessments and other environmental findings.

(a) A responsible entity must re-evaluate its environmental findings to determine if the original findings are still valid, when:

(1) The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;

(2) There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or

(3) The recipient proposes the selection of an alternative not in the original finding.

(b)(1) If the original findings are still valid but the data or conditions upon which they were based have changed, the responsible entity must affirm the original findings and update its ERR by including this re-evaluation and its determination based on its findings. Under these circumstances, if a FONSI notice has already been published, no further publication of a FONSI notice is required.

(2) If the responsible entity determines that the original findings are no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts.

(3) Where the recipient is not the responsible entity, the recipient must inform the responsible entity promptly of any proposed substantial changes under paragraph (a)(1) of this section, new circumstances or environmental conditions under paragraphs (a)(2) of this section, or any proposals to select a different alternative under paragraph (a)(3) of this section, and

must them permit the responsible entity to re-evaluate the findings before proceeding.

Subpart F--Environmental Review Process: Environmental Impact Statement Determinations

Sec. 58.52 Adoption of other agencies' EISs.

The responsible entity may adopt a draft or final EIS prepared by another agency provided that the EIS was prepared in accordance with 40 CFR parts 1500 through 1508. If the responsible entity adopts an EIS prepared by another agency, the procedure in 40 CFR 1506.3 shall be followed. An adopted EIS may have to be revised and modified to adapt it to the particular environmental conditions and circumstances of the project if these are different from the project reviewed in the EIS. In such cases the responsible entity must prepare, circulate, and file a supplemental draft EIS in the manner prescribed in Sec. 58.60(d) and otherwise comply with the clearance and time requirements of the EIS process, except that scoping requirements under 40 CFR 1501.7 shall not apply. The agency that prepared the original EIS should be informed that the responsible entity intends to amend and adopt the EIS. The responsible entity may adopt an EIS when it acts as a cooperating agency in its preparation under 40 CFR 1506.3. The responsible entity is not required to re-circulate or file the EIS, but must complete the clearance process for the RROF. The decision to adopt an EIS shall be made a part of the project ERR.

Sec. 58.53 Use of prior environmental impact statements.

Where any final EIS has been listed in the Federal Register for a project pursuant to this part, or where an areawide or similar broad scale final EIS has been issued and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for the subsequent project if all the following conditions are met:

(a) The ERR contains a decision based on a finding pursuant to Sec. 58.40 that the proposed project is not a new major Federal action significantly affecting the quality of the human environment. The decision shall include:

(1) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;

(2) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;

(3) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior EIS;

(4) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(b) The prior final EIS has been filed within five (5) years, and updated as follows:

(1) The EIS has been updated to reflect any significant revisions made to the assumptions under which the original EIS was prepared;

(2) The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which may have significant environmental impact on the project area covered by the prior EIS.

(c) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

Subpart G--Environmental Review Process: Procedures for Draft, Final and Supplemental Environmental Impact Statements

Sec. 58.55 Notice of intent to prepare an EIS.

As soon as practicable after the responsible entity decides to prepare an EIS, it must publish a NOI/EIS, using the HUD recommended format and disseminate it in the same manner as required by 40 CFR parts 1500 through 1508.

Sec. 58.56 Scoping process.

The determination on whether or not to hold a scoping meeting will depend on the same circumstances and factors as for the holding of public hearings under Sec. 58.59. The responsible entity must wait at least 15 days after disseminating or publishing the NOI/EIS before holding a scoping meeting.

Sec. 58.57 Lead agency designation.

If there are several agencies ready to assume the lead role, the responsible entity must make its decision based on the criteria in 40 CFR 1501.5(c). If the responsible entity and a Federal agency are unable to reach agreement, then the responsible entity must notify HUD (or the State, where applicable). HUD (or the State) will assist in obtaining a determination based on the procedure set forth in 40 CFR 1501.5(e).

Sec. 58.59 Public hearings and meetings.

(a) Factors to consider. In determining whether or not to hold public hearings in accordance with 40 CFR 1506.6, the responsible entity must consider the following factors:

(1) The magnitude of the project in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of resources involved.

(2) The degree of interest in or controversy

concerning the project.

(3) The complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the responsible entity.

(4) The extent to which public involvement has been achieved through other means.

(b) Procedure. All public hearings must be preceded by a notice of public hearing, which must be published in the local news media 15 days before the hearing date. The Notice must:

(1) State the date, time, place, and purpose of the hearing or meeting.

(2) Describe the project, its estimated costs, and the project area.

(3) State that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard.

(4) State the responsible entity's name and address and the name and address of its Certifying Officer.

(5) State what documents are available, where they can be obtained, and any charges that may apply.

Sec. 58.60 Preparation and filing of environmental impact statements.

(a) The responsible entity must prepare the draft environmental impact statement (DEIS) and the final environmental impact statements (FEIS) using the current HUD recommended format or its equivalent.

(b) The responsible entity must file and distribute the (DEIS) and the (FEIS) in the following manner:

(1) Five copies to EPA Headquarters;

(2) Five copies to EPA Regional Office;

(3) Copies made available in the responsible entity's and the recipient's office;

(4) Copies or summaries made available to persons who request them; and

(5) FEIS only--one copy to State, HUD Field Office, and HUD Headquarters library.

(c) The responsible entity may request waivers from the time requirements specified for the draft and final EIS as prescribed in 40 CFR 1506.6.

(d) When substantial changes are proposed in a project or when significant new circumstances or information becomes available during an environmental review, the recipient may prepare a supplemental EIS as prescribed in 40 CFR 1502.9.

(e) The responsible entity must prepare a Record of Decision (ROD) as prescribed in 40 CFR 1505.2.

Subpart H--Release of Funds for Particular Projects

Sec. 58.70 Notice of intent to request release of funds.

The NOI/RROF must be disseminated and/or published in the manner prescribed by Sec. 58.43 and Sec. 58.45 before the certification is signed by the responsible entity.

Sec. 58.71 Request for release of funds and certification

(a) The RROF and certification shall be sent to the appropriate HUD Field Office (or the State, if applicable), except as provided in paragraph (b) of this section. This request shall be executed by the Certifying Officer. The request shall describe the specific project and activities covered by the request and contain the certification required under the applicable statute cited in Sec. 58.1(b). The RROF and certification must be in a form specified by HUD.

(b) When the responsible entity is conducting an environmental review on behalf of a recipient, as provided for in Sec. 58.10, the recipient must provide the responsible entity with all available project and environmental information and refrain from undertaking any physical activities or choice limiting actions until HUD (or the State, if applicable) has approved its request for release of funds. The certification form executed by the responsible entity's certifying officer shall be sent to the recipient that is to receive the assistance along with a description of any special environmental conditions that must be adhered to in carrying out the project. The recipient is to submit the RROF and the certification of the responsible entity to HUD (or the State, if applicable) requesting the release of funds. The recipient must agree to abide by the special conditions, procedures and requirements of the environmental review, and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions.

(c) If the responsible entity determines that some of the activities are exempt under applicable provisions of this part, the responsible entity shall advise the recipient that it may commit funds for these activities as soon as programmatic authorization is received. This finding shall be documented in the ERR maintained by the responsible entity and in the recipient's project files.

Sec. 58.72 HUD or State Actions on RROFs and certifications.

The actions which HUD (or a State) may take with respect to a recipient's environmental certification and RROF are as follows:

(a) In the absence of any receipt of objection to the contrary, except as provided in paragraph (b) of this section, HUD (or the State) will assume the validity of the certification and RROF and will approve these documents after expiration of the 15-day period prescribed by statute.

(b) HUD (or the state) may disapprove a certification and RROF if it has knowledge that the responsible entity or other participants in the development process have not complied with the items in Sec. 58.75, or that the RROF and certification are inaccurate.

(c) In cases in which HUD has approved a certification and RROF but subsequently learns (e.g., through monitoring) that the recipient violated Sec. 58.22 or the recipient or responsible entity otherwise failed to comply with a clearly applicable environmental authority, HUD shall impose appropriate remedies and sanctions in accord with the law and regulations for the program under which the violation was found.

Sec. 58.73 Objections to release of funds

HUD (or the State) will not approve the ROF for any project before 15 calendar days have elapsed from the time of receipt of the RROF and the certification or from the time specified in the notice published pursuant to Sec. 58.70, whichever is later. Any person or agency may object to a recipient's RROF and the related certification. However, the objections must meet the conditions and procedures set forth in subpart H of this part. HUD (or the State) can refuse the RROF and certification on any grounds set forth in Sec. 58.75. All decisions by HUD (or the State) regarding the RROF and the certification shall be final.

Sec. 58.74 Time for objecting

All objections must be received by HUD (or the State) within 15 days from the time HUD (or the State) receives the recipient's RROF and the related certification, or within the time period specified in the notice, whichever is later.

Sec. 58.75 Permissible bases for objections

HUD (or the State), will consider objections claiming a responsible entity's noncompliance with this part based only on any of the following grounds:

(a) The certification was not in fact executed by the responsible entity's Certifying Officer.

(b) The responsible entity has failed to make one of the two findings pursuant to Sec. 58.40 or to make the written determination required by Secs. 58.35, 58.47 or 58.53 for the project, as applicable.

(c) The responsible entity has omitted one or more of the steps set forth in subpart E of this part for the preparation, publication and completion of an EA.

(d) The responsible entity has omitted one or more of the steps set forth at subparts F and G of this part for the conduct, preparation, publication and completion of an EIS.

(e) The recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by this part before release of funds and approval of the environmental certification by HUD (or the state).

(f) Another Federal agency acting pursuant to 40 CFR part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

Sec. 58.76 Procedure for objections

A person or agency objecting to a responsible entity's RROF and certification shall submit

objections in writing to HUD (or the State). The objections shall:

(a) Include the name, address and telephone number of the person or agency submitting the objection, and be signed by the person or authorized official of an agency.

(b) Be dated when signed.

(c) Describe the basis for objection and the facts or legal authority supporting the objection.

(d) State when a copy of the objection was mailed or delivered to the responsible entity's Certifying Officer.

Sec. 58.77 Effect of approval of certification

(a) Responsibilities of HUD and States. HUD's (or, where applicable, the State's) approval of the certification shall be deemed to satisfy the responsibilities of the Secretary under NEPA and related provisions of law cited at Sec. 58.5 insofar as those responsibilities relate to the release of funds as authorized by the applicable provisions of law cited in Sec. 58.1(b).

(b) Public and agency redress. Persons and agencies seeking redress in relation to environmental reviews covered by an approved certification shall deal with the responsible entity and not with HUD. It is HUD's policy to refer all inquiries and complaints to the responsible entity and its Certifying Officer. Similarly, the State (where applicable) may direct persons and agencies seeking redress in relation to environmental reviews covered by an approved certification to deal with the responsible entity, and not the State, and may refer inquiries and complaints to the responsible entity and its Certifying Officer. Remedies for noncompliance are set forth in program regulations.

(c) Implementation of environmental review decisions. Projects of a recipient will require post-review monitoring and other inspection and enforcement actions by the recipient and the State or HUD (using procedures provided for in program regulations) to assure that decisions adopted through the environmental review process are carried out during project development and implementation.

(d) Responsibility for monitoring and training. (1) At least once every three years, HUD intends to conduct in-depth monitoring and exercise quality control (through training and consultation) over the environmental activities performed by responsible entities under this part. Limited monitoring of these environmental activities will be conducted during each program monitoring site visit. If through limited or in-depth monitoring of these environmental activities or by other means, HUD becomes aware of any environmental deficiencies, HUD may take one or more of the following actions:

(i) In the case of problems found during limited monitoring, HUD may schedule in-depth monitoring at an earlier date or may schedule in-depth monitoring more frequently;

(ii) HUD may require attendance by staff of the responsible entity at HUD-sponsored or approved training, which will be provided periodically at various locations around the country;

(iii) HUD may refuse to accept the certifications of environmental compliance on subsequent grants;

(iv) HUD may suspend or terminate the responsible entity's assumption of the environmental review responsibility;

(v) HUD may initiate sanctions, corrective actions, or other remedies specified in program regulations or agreements or contracts with the recipient.

(2) HUD's responsibilities and action under paragraph (d)(1) of this section shall not be construed to limit or reduce any responsibility assumed by a responsible entity with respect to any particular release of funds under this part. Whether or not HUD takes action under paragraph (d)(1) of this section, the Certifying Officer remains the responsible Federal official under Sec. 58.13 with respect to projects and activities for which the Certifying Officer has submitted a certification under this part.